

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Findings.

5 (a) In 2011, the General Assembly encouraged and enabled
6 the State's largest electric utilities to undertake
7 substantial investment to refurbish, rebuild, modernize, and
8 expand Illinois' century-old electric grid. Among those
9 investments were the deployment of a smart grid and advanced
10 metering infrastructure platform that would be accessible to
11 all retail customers through new, digital smart meters. This
12 investment, now well underway, not only allows utilities to
13 continue to provide safe, reliable, and affordable service to
14 the State's current and future utility customers, but also
15 empowers the citizens of this State to directly access and
16 participate in the rapidly emerging clean energy economy while
17 also presenting them with unprecedented choices in their source
18 of energy supply and pricing.

19 To ensure that the State and its citizens, including
20 low-income citizens, are equipped to enjoy the opportunities
21 and benefits of the smart grid and evolving clean energy
22 marketplace, the General Assembly finds and declares that
23 Illinois should continue in its efforts to build the grid of
24 the future using the smart grid and advanced metering

1 infrastructure platform, as well as maximize the impact of the
2 State's existing energy efficiency and renewable energy
3 portfolio standards. Specifically, the Generally Assembly
4 finds that:

5 (1) the State should encourage: the adoption and
6 deployment of cost-effective distributed energy resource
7 technologies and devices, such as photovoltaics, which can
8 encourage private investment in renewable energy
9 resources, stimulate economic growth, enhance the
10 continued diversification of Illinois' energy resource
11 mix, and protect the Illinois environment; investment in
12 renewable energy resources, including, but not limited to,
13 photovoltaic distributed generation, which should benefit
14 all citizens of the State, including low-income
15 households; and

16 (2) the State's existing energy efficiency standard
17 should be updated to ensure that customers continue to
18 realize increased value, to incorporate and optimize
19 measures enabled by the smart grid, including voltage
20 optimization measures, and to provide incentives for
21 electric utilities to achieve the energy savings goals.

22 (b) The General Assembly finds that low-income customers
23 should be included within the State's efforts to expand the use
24 of distributed generation technologies and devices.

25 Section 1.5. Zero emission standard legislative findings.

1 The General Assembly finds and declares:

2 (1) Reducing emissions of carbon dioxide and other air
3 pollutants, such as sulfur oxides, nitrogen oxides, and
4 particulate matter, is critical to improving air quality in
5 Illinois for Illinois residents.

6 (2) Sulfur oxides, nitrogen oxides, and particulate
7 emissions have significant adverse health effects on
8 persons exposed to them, and carbon dioxide emissions
9 result in climate change trends that could significantly
10 adversely impact Illinois.

11 (3) The existing renewable portfolio standard has been
12 successful in promoting the growth of renewable energy
13 generation to reduce air pollution in Illinois. However, to
14 achieve its environmental goals, Illinois must expand its
15 commitment to zero emission energy generation and value the
16 environmental attributes of zero emission generation that
17 currently falls outside the scope of the existing renewable
18 portfolio standard, including, but not limited to, nuclear
19 power.

20 (4) Preserving existing zero emission energy
21 generation and promoting new zero emission energy
22 generation is vital to placing the State on a glide path to
23 achieving its environmental goals and ensuring that air
24 quality in Illinois continues to improve.

25 (5) The Illinois Commerce Commission, the Illinois
26 Power Agency, the Illinois Environmental Protection

1 Agency, and the Department of Commerce and Economic
2 Opportunity issued a report dated January 5, 2015 titled
3 "Potential Nuclear Power Plant Closings in Illinois" (the
4 Report), which addressed the issues identified by Illinois
5 House Resolution 1146 of the 98th General Assembly, which,
6 among other things, urged the Illinois Environmental
7 Protection Agency to prepare a report showing how the
8 premature closure of existing nuclear power plants in
9 Illinois will affect the societal cost of increased
10 greenhouse gas emissions based upon the Environmental
11 Protection Agency's published societal cost of greenhouse
12 gases.

13 (6) The Report also included analysis from PJM
14 Interconnection, LLC, which identified significant adverse
15 consequences for electric reliability, including
16 significant voltage and thermal violations in the
17 interstate transmission network, in the event that
18 Illinois' existing nuclear facilities close prematurely.
19 The Report also found that nuclear power plants are among
20 the most reliable sources of energy, which means that
21 electricity from nuclear power plants is available on the
22 electric grid all hours of the day and when needed, thereby
23 always reducing carbon emissions.

24 (7) Illinois House Resolution 1146 further urged that
25 the Report make findings concerning potential market-based
26 solutions that will ensure that the premature closure of

1 these nuclear power plants does not occur and that the
2 associated dire consequences to the environment, electric
3 reliability, and the regional economy are averted.

4 (8) The Report identified potential market-based
5 solutions that will ensure that the premature closure of
6 these nuclear power plants does not occur and that the
7 associated dire consequences to the environment, electric
8 reliability, and the regional economy are averted.

9 The General Assembly further finds that the Social Cost of
10 Carbon is an appropriate valuation of the environmental
11 benefits provided by zero emission facilities, provided that
12 the valuation is subject to a price adjustment that can reduce
13 the price for zero emission credits below the Social Cost of
14 Carbon. This will ensure that the procurement of zero emission
15 credits remains affordable for retail customers even if energy
16 and capacity prices are projected to rise above 2016 levels
17 reflected in the baseline market price index.

18 The General Assembly therefore finds that it is necessary
19 to establish and implement a zero emission standard, which will
20 increase the State's reliance on zero emission energy through
21 the procurement of zero emission credits from zero emission
22 facilities, in order to achieve the State's environmental
23 objectives and reduce the adverse impact of emitted air
24 pollutants on the health and welfare of the State's citizens.

25 Section 3. The Illinois Administrative Procedure Act is

1 amended by changing Section 5-45 as follows:

2 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

3 Sec. 5-45. Emergency rulemaking.

4 (a) "Emergency" means the existence of any situation that
5 any agency finds reasonably constitutes a threat to the public
6 interest, safety, or welfare.

7 (b) If any agency finds that an emergency exists that
8 requires adoption of a rule upon fewer days than is required by
9 Section 5-40 and states in writing its reasons for that
10 finding, the agency may adopt an emergency rule without prior
11 notice or hearing upon filing a notice of emergency rulemaking
12 with the Secretary of State under Section 5-70. The notice
13 shall include the text of the emergency rule and shall be
14 published in the Illinois Register. Consent orders or other
15 court orders adopting settlements negotiated by an agency may
16 be adopted under this Section. Subject to applicable
17 constitutional or statutory provisions, an emergency rule
18 becomes effective immediately upon filing under Section 5-65 or
19 at a stated date less than 10 days thereafter. The agency's
20 finding and a statement of the specific reasons for the finding
21 shall be filed with the rule. The agency shall take reasonable
22 and appropriate measures to make emergency rules known to the
23 persons who may be affected by them.

24 (c) An emergency rule may be effective for a period of not
25 longer than 150 days, but the agency's authority to adopt an

1 identical rule under Section 5-40 is not precluded. No
2 emergency rule may be adopted more than once in any 24-month ~~24~~
3 ~~month~~ period, except that this limitation on the number of
4 emergency rules that may be adopted in a 24-month ~~24-month~~
5 period does not apply to (i) emergency rules that make
6 additions to and deletions from the Drug Manual under Section
7 5-5.16 of the Illinois Public Aid Code or the generic drug
8 formulary under Section 3.14 of the Illinois Food, Drug and
9 Cosmetic Act, (ii) emergency rules adopted by the Pollution
10 Control Board before July 1, 1997 to implement portions of the
11 Livestock Management Facilities Act, (iii) emergency rules
12 adopted by the Illinois Department of Public Health under
13 subsections (a) through (i) of Section 2 of the Department of
14 Public Health Act when necessary to protect the public's
15 health, (iv) emergency rules adopted pursuant to subsection (n)
16 of this Section, (v) emergency rules adopted pursuant to
17 subsection (o) of this Section, or (vi) emergency rules adopted
18 pursuant to subsection (c-5) of this Section. Two or more
19 emergency rules having substantially the same purpose and
20 effect shall be deemed to be a single rule for purposes of this
21 Section.

22 (c-5) To facilitate the maintenance of the program of group
23 health benefits provided to annuitants, survivors, and retired
24 employees under the State Employees Group Insurance Act of
25 1971, rules to alter the contributions to be paid by the State,
26 annuitants, survivors, retired employees, or any combination

1 of those entities, for that program of group health benefits,
2 shall be adopted as emergency rules. The adoption of those
3 rules shall be considered an emergency and necessary for the
4 public interest, safety, and welfare.

5 (d) In order to provide for the expeditious and timely
6 implementation of the State's fiscal year 1999 budget,
7 emergency rules to implement any provision of Public Act 90-587
8 or 90-588 or any other budget initiative for fiscal year 1999
9 may be adopted in accordance with this Section by the agency
10 charged with administering that provision or initiative,
11 except that the 24-month limitation on the adoption of
12 emergency rules and the provisions of Sections 5-115 and 5-125
13 do not apply to rules adopted under this subsection (d). The
14 adoption of emergency rules authorized by this subsection (d)
15 shall be deemed to be necessary for the public interest,
16 safety, and welfare.

17 (e) In order to provide for the expeditious and timely
18 implementation of the State's fiscal year 2000 budget,
19 emergency rules to implement any provision of Public Act 91-24
20 or any other budget initiative for fiscal year 2000 may be
21 adopted in accordance with this Section by the agency charged
22 with administering that provision or initiative, except that
23 the 24-month limitation on the adoption of emergency rules and
24 the provisions of Sections 5-115 and 5-125 do not apply to
25 rules adopted under this subsection (e). The adoption of
26 emergency rules authorized by this subsection (e) shall be

1 deemed to be necessary for the public interest, safety, and
2 welfare.

3 (f) In order to provide for the expeditious and timely
4 implementation of the State's fiscal year 2001 budget,
5 emergency rules to implement any provision of Public Act 91-712
6 or any other budget initiative for fiscal year 2001 may be
7 adopted in accordance with this Section by the agency charged
8 with administering that provision or initiative, except that
9 the 24-month limitation on the adoption of emergency rules and
10 the provisions of Sections 5-115 and 5-125 do not apply to
11 rules adopted under this subsection (f). The adoption of
12 emergency rules authorized by this subsection (f) shall be
13 deemed to be necessary for the public interest, safety, and
14 welfare.

15 (g) In order to provide for the expeditious and timely
16 implementation of the State's fiscal year 2002 budget,
17 emergency rules to implement any provision of Public Act 92-10
18 or any other budget initiative for fiscal year 2002 may be
19 adopted in accordance with this Section by the agency charged
20 with administering that provision or initiative, except that
21 the 24-month limitation on the adoption of emergency rules and
22 the provisions of Sections 5-115 and 5-125 do not apply to
23 rules adopted under this subsection (g). The adoption of
24 emergency rules authorized by this subsection (g) shall be
25 deemed to be necessary for the public interest, safety, and
26 welfare.

1 (h) In order to provide for the expeditious and timely
2 implementation of the State's fiscal year 2003 budget,
3 emergency rules to implement any provision of Public Act 92-597
4 or any other budget initiative for fiscal year 2003 may be
5 adopted in accordance with this Section by the agency charged
6 with administering that provision or initiative, except that
7 the 24-month limitation on the adoption of emergency rules and
8 the provisions of Sections 5-115 and 5-125 do not apply to
9 rules adopted under this subsection (h). The adoption of
10 emergency rules authorized by this subsection (h) shall be
11 deemed to be necessary for the public interest, safety, and
12 welfare.

13 (i) In order to provide for the expeditious and timely
14 implementation of the State's fiscal year 2004 budget,
15 emergency rules to implement any provision of Public Act 93-20
16 or any other budget initiative for fiscal year 2004 may be
17 adopted in accordance with this Section by the agency charged
18 with administering that provision or initiative, except that
19 the 24-month limitation on the adoption of emergency rules and
20 the provisions of Sections 5-115 and 5-125 do not apply to
21 rules adopted under this subsection (i). The adoption of
22 emergency rules authorized by this subsection (i) shall be
23 deemed to be necessary for the public interest, safety, and
24 welfare.

25 (j) In order to provide for the expeditious and timely
26 implementation of the provisions of the State's fiscal year

1 2005 budget as provided under the Fiscal Year 2005 Budget
2 Implementation (Human Services) Act, emergency rules to
3 implement any provision of the Fiscal Year 2005 Budget
4 Implementation (Human Services) Act may be adopted in
5 accordance with this Section by the agency charged with
6 administering that provision, except that the 24-month
7 limitation on the adoption of emergency rules and the
8 provisions of Sections 5-115 and 5-125 do not apply to rules
9 adopted under this subsection (j). The Department of Public Aid
10 may also adopt rules under this subsection (j) necessary to
11 administer the Illinois Public Aid Code and the Children's
12 Health Insurance Program Act. The adoption of emergency rules
13 authorized by this subsection (j) shall be deemed to be
14 necessary for the public interest, safety, and welfare.

15 (k) In order to provide for the expeditious and timely
16 implementation of the provisions of the State's fiscal year
17 2006 budget, emergency rules to implement any provision of
18 Public Act 94-48 or any other budget initiative for fiscal year
19 2006 may be adopted in accordance with this Section by the
20 agency charged with administering that provision or
21 initiative, except that the 24-month limitation on the adoption
22 of emergency rules and the provisions of Sections 5-115 and
23 5-125 do not apply to rules adopted under this subsection (k).
24 The Department of Healthcare and Family Services may also adopt
25 rules under this subsection (k) necessary to administer the
26 Illinois Public Aid Code, the Senior Citizens and Persons with

1 Disabilities Property Tax Relief Act, the Senior Citizens and
2 Disabled Persons Prescription Drug Discount Program Act (now
3 the Illinois Prescription Drug Discount Program Act), and the
4 Children's Health Insurance Program Act. The adoption of
5 emergency rules authorized by this subsection (k) shall be
6 deemed to be necessary for the public interest, safety, and
7 welfare.

8 (l) In order to provide for the expeditious and timely
9 implementation of the provisions of the State's fiscal year
10 2007 budget, the Department of Healthcare and Family Services
11 may adopt emergency rules during fiscal year 2007, including
12 rules effective July 1, 2007, in accordance with this
13 subsection to the extent necessary to administer the
14 Department's responsibilities with respect to amendments to
15 the State plans and Illinois waivers approved by the federal
16 Centers for Medicare and Medicaid Services necessitated by the
17 requirements of Title XIX and Title XXI of the federal Social
18 Security Act. The adoption of emergency rules authorized by
19 this subsection (l) shall be deemed to be necessary for the
20 public interest, safety, and welfare.

21 (m) In order to provide for the expeditious and timely
22 implementation of the provisions of the State's fiscal year
23 2008 budget, the Department of Healthcare and Family Services
24 may adopt emergency rules during fiscal year 2008, including
25 rules effective July 1, 2008, in accordance with this
26 subsection to the extent necessary to administer the

1 Department's responsibilities with respect to amendments to
2 the State plans and Illinois waivers approved by the federal
3 Centers for Medicare and Medicaid Services necessitated by the
4 requirements of Title XIX and Title XXI of the federal Social
5 Security Act. The adoption of emergency rules authorized by
6 this subsection (m) shall be deemed to be necessary for the
7 public interest, safety, and welfare.

8 (n) In order to provide for the expeditious and timely
9 implementation of the provisions of the State's fiscal year
10 2010 budget, emergency rules to implement any provision of
11 Public Act 96-45 or any other budget initiative authorized by
12 the 96th General Assembly for fiscal year 2010 may be adopted
13 in accordance with this Section by the agency charged with
14 administering that provision or initiative. The adoption of
15 emergency rules authorized by this subsection (n) shall be
16 deemed to be necessary for the public interest, safety, and
17 welfare. The rulemaking authority granted in this subsection
18 (n) shall apply only to rules promulgated during Fiscal Year
19 2010.

20 (o) In order to provide for the expeditious and timely
21 implementation of the provisions of the State's fiscal year
22 2011 budget, emergency rules to implement any provision of
23 Public Act 96-958 or any other budget initiative authorized by
24 the 96th General Assembly for fiscal year 2011 may be adopted
25 in accordance with this Section by the agency charged with
26 administering that provision or initiative. The adoption of

1 emergency rules authorized by this subsection (o) is deemed to
2 be necessary for the public interest, safety, and welfare. The
3 rulemaking authority granted in this subsection (o) applies
4 only to rules promulgated on or after July 1, 2010 (the
5 effective date of Public Act 96-958) through June 30, 2011.

6 (p) In order to provide for the expeditious and timely
7 implementation of the provisions of Public Act 97-689,
8 emergency rules to implement any provision of Public Act 97-689
9 may be adopted in accordance with this subsection (p) by the
10 agency charged with administering that provision or
11 initiative. The 150-day limitation of the effective period of
12 emergency rules does not apply to rules adopted under this
13 subsection (p), and the effective period may continue through
14 June 30, 2013. The 24-month limitation on the adoption of
15 emergency rules does not apply to rules adopted under this
16 subsection (p). The adoption of emergency rules authorized by
17 this subsection (p) is deemed to be necessary for the public
18 interest, safety, and welfare.

19 (q) In order to provide for the expeditious and timely
20 implementation of the provisions of Articles 7, 8, 9, 11, and
21 12 of Public Act 98-104, emergency rules to implement any
22 provision of Articles 7, 8, 9, 11, and 12 of Public Act 98-104
23 may be adopted in accordance with this subsection (q) by the
24 agency charged with administering that provision or
25 initiative. The 24-month limitation on the adoption of
26 emergency rules does not apply to rules adopted under this

1 subsection (q). The adoption of emergency rules authorized by
2 this subsection (q) is deemed to be necessary for the public
3 interest, safety, and welfare.

4 (r) In order to provide for the expeditious and timely
5 implementation of the provisions of Public Act 98-651,
6 emergency rules to implement Public Act 98-651 may be adopted
7 in accordance with this subsection (r) by the Department of
8 Healthcare and Family Services. The 24-month limitation on the
9 adoption of emergency rules does not apply to rules adopted
10 under this subsection (r). The adoption of emergency rules
11 authorized by this subsection (r) is deemed to be necessary for
12 the public interest, safety, and welfare.

13 (s) In order to provide for the expeditious and timely
14 implementation of the provisions of Sections 5-5b.1 and 5A-2 of
15 the Illinois Public Aid Code, emergency rules to implement any
16 provision of Section 5-5b.1 or Section 5A-2 of the Illinois
17 Public Aid Code may be adopted in accordance with this
18 subsection (s) by the Department of Healthcare and Family
19 Services. The rulemaking authority granted in this subsection
20 (s) shall apply only to those rules adopted prior to July 1,
21 2015. Notwithstanding any other provision of this Section, any
22 emergency rule adopted under this subsection (s) shall only
23 apply to payments made for State fiscal year 2015. The adoption
24 of emergency rules authorized by this subsection (s) is deemed
25 to be necessary for the public interest, safety, and welfare.

26 (t) In order to provide for the expeditious and timely

1 implementation of the provisions of Article II of Public Act
2 99-6, emergency rules to implement the changes made by Article
3 II of Public Act 99-6 to the Emergency Telephone System Act may
4 be adopted in accordance with this subsection (t) by the
5 Department of State Police. The rulemaking authority granted in
6 this subsection (t) shall apply only to those rules adopted
7 prior to July 1, 2016. The 24-month limitation on the adoption
8 of emergency rules does not apply to rules adopted under this
9 subsection (t). The adoption of emergency rules authorized by
10 this subsection (t) is deemed to be necessary for the public
11 interest, safety, and welfare.

12 (u) In order to provide for the expeditious and timely
13 implementation of the provisions of the Burn Victims Relief
14 Act, emergency rules to implement any provision of the Act may
15 be adopted in accordance with this subsection (u) by the
16 Department of Insurance. The rulemaking authority granted in
17 this subsection (u) shall apply only to those rules adopted
18 prior to December 31, 2015. The adoption of emergency rules
19 authorized by this subsection (u) is deemed to be necessary for
20 the public interest, safety, and welfare.

21 (v) In order to provide for the expeditious and timely
22 implementation of the provisions of Public Act 99-516 ~~this~~
23 ~~amendatory Act of the 99th General Assembly~~, emergency rules to
24 implement Public Act 99-516 ~~this amendatory Act of the 99th~~
25 ~~General Assembly~~ may be adopted in accordance with this
26 subsection (v) by the Department of Healthcare and Family

1 Services. The 24-month limitation on the adoption of emergency
2 rules does not apply to rules adopted under this subsection
3 (v). The adoption of emergency rules authorized by this
4 subsection (v) is deemed to be necessary for the public
5 interest, safety, and welfare.

6 (w) ~~(v)~~ In order to provide for the expeditious and timely
7 implementation of the provisions of Public Act 99-796 ~~this~~
8 ~~amendatory Act of the 99th General Assembly~~, emergency rules to
9 implement the changes made by Public Act 99-796 ~~this amendatory~~
10 ~~Act of the 99th General Assembly~~ may be adopted in accordance
11 with this subsection (w) ~~(v)~~ by the Adjutant General. The
12 adoption of emergency rules authorized by this subsection (w)
13 ~~(v)~~ is deemed to be necessary for the public interest, safety,
14 and welfare.

15 (x) In order to provide for the expeditious and timely
16 implementation of the provisions of this amendatory Act of the
17 99th General Assembly, emergency rules to implement subsection
18 (i) of Section 16-115D, subsection (g) of Section 16-128A, and
19 subsection (a) of Section 16-128B of the Public Utilities Act
20 may be adopted in accordance with this subsection (x) by the
21 Illinois Commerce Commission. The rulemaking authority granted
22 in this subsection (x) shall apply only to those rules adopted
23 within 180 days after the effective date of this amendatory Act
24 of the 99th General Assembly. The adoption of emergency rules
25 authorized by this subsection (x) is deemed to be necessary for
26 the public interest, safety, and welfare.

1 (Source: P.A. 98-104, eff. 7-22-13; 98-463, eff. 8-16-13;
2 98-651, eff. 6-16-14; 99-2, eff. 3-26-15; 99-6, eff. 1-1-16;
3 99-143, eff. 7-27-15; 99-455, eff. 1-1-16; 99-516, eff.
4 6-30-16; 99-642, eff. 7-28-16; 99-796, eff. 1-1-17; revised
5 9-21-16.)

6 Section 5. The Illinois Power Agency Act is amended by
7 changing Sections 1-5, 1-10, 1-20, 1-25, 1-56, and 1-75 as
8 follows:

9 (20 ILCS 3855/1-5)

10 Sec. 1-5. Legislative declarations and findings. The
11 General Assembly finds and declares:

12 (1) The health, welfare, and prosperity of all Illinois
13 citizens require the provision of adequate, reliable,
14 affordable, efficient, and environmentally sustainable
15 electric service at the lowest total cost over time, taking
16 into account any benefits of price stability.

17 (2) (Blank). ~~The transition to retail competition is~~
18 ~~not complete. Some customers, especially residential and~~
19 ~~small commercial customers, have failed to benefit from~~
20 ~~lower electricity costs from retail and wholesale~~
21 ~~competition.~~

22 (3) (Blank). ~~Escalating prices for electricity in~~
23 ~~Illinois pose a serious threat to the economic well-being,~~
24 ~~health, and safety of the residents of and the commerce and~~

1 ~~industry of the State.~~

2 (4) ~~It To protect against this threat to economic~~
3 ~~well-being, health, and safety it~~ is necessary to improve
4 the process of procuring electricity to serve Illinois
5 residents, to promote investment in energy efficiency and
6 demand-response measures, and to maintain and support
7 development of clean coal technologies, generation
8 resources that operate at all hours of the day and under
9 all weather conditions, zero emission facilities, and
10 renewable resources.

11 (5) Procuring a diverse electricity supply portfolio
12 will ensure the lowest total cost over time for adequate,
13 reliable, efficient, and environmentally sustainable
14 electric service.

15 (6) Including ~~cost-effective~~ renewable resources and
16 zero emission credits from zero emission facilities in that
17 portfolio will reduce long-term direct and indirect costs
18 to consumers by decreasing environmental impacts and by
19 avoiding or delaying the need for new generation,
20 transmission, and distribution infrastructure. Developing
21 new renewable energy resources in Illinois, including
22 brownfield solar projects and community solar projects,
23 will help to diversify Illinois electricity supply, avoid
24 and reduce pollution, reduce peak demand, and enhance
25 public health and well-being of Illinois residents.

26 (7) Developing community solar projects in Illinois

1 will help to expand access to renewable energy resources to
2 more Illinois residents.

3 (8) Developing brownfield solar projects in Illinois
4 will help return blighted or contaminated land to
5 productive use while enhancing public health and the
6 well-being of Illinois residents.

7 (9) ~~(7)~~ Energy efficiency, demand-response measures,
8 zero emission energy, and renewable energy are resources
9 currently underused in Illinois. These resources should be
10 used, when cost effective, to reduce costs to consumers,
11 improve reliability, and improve environmental quality and
12 public health.

13 (10) ~~(8)~~ The State should encourage the use of advanced
14 clean coal technologies that capture and sequester carbon
15 dioxide emissions to advance environmental protection
16 goals and to demonstrate the viability of coal and
17 coal-derived fuels in a carbon-constrained economy.

18 (11) ~~(9)~~ The General Assembly enacted Public Act
19 96-0795 to reform the State's purchasing processes,
20 recognizing that government procurement is susceptible to
21 abuse if structural and procedural safeguards are not in
22 place to ensure independence, insulation, oversight, and
23 transparency.

24 (12) ~~(10)~~ The principles that underlie the procurement
25 reform legislation apply also in the context of power
26 purchasing.

1 The General Assembly therefore finds that it is necessary
2 to create the Illinois Power Agency and that the goals and
3 objectives of that Agency are to accomplish each of the
4 following:

5 (A) Develop electricity procurement plans to ensure
6 adequate, reliable, affordable, efficient, and
7 environmentally sustainable electric service at the lowest
8 total cost over time, taking into account any benefits of
9 price stability, for electric utilities that on December
10 31, 2005 provided electric service to at least 100,000
11 customers in Illinois and for small multi-jurisdictional
12 electric utilities that (i) on December 31, 2005 served
13 less than 100,000 customers in Illinois and (ii) request a
14 procurement plan for their Illinois jurisdictional load.
15 The procurement plan shall be updated on an annual basis
16 and shall include renewable energy resources and,
17 beginning with the delivery year commencing June 1, 2017,
18 zero emission credits from zero emission facilities
19 sufficient to achieve the standards specified in this Act.

20 (B) Conduct the competitive procurement processes
21 identified in this Act ~~to procure the supply resources~~
22 ~~identified in the procurement plan.~~

23 (C) Develop electric generation and co-generation
24 facilities that use indigenous coal or renewable
25 resources, or both, financed with bonds issued by the
26 Illinois Finance Authority.

1 (D) Supply electricity from the Agency's facilities at
2 cost to one or more of the following: municipal electric
3 systems, governmental aggregators, or rural electric
4 cooperatives in Illinois.

5 (E) Ensure that the process of power procurement is
6 conducted in an ethical and transparent fashion, immune
7 from improper influence.

8 (F) Continue to review its policies and practices to
9 determine how best to meet its mission of providing the
10 lowest cost power to the greatest number of people, at any
11 given point in time, in accordance with applicable law.

12 (G) Operate in a structurally insulated, independent,
13 and transparent fashion so that nothing impedes the
14 Agency's mission to secure power at the best prices the
15 market will bear, provided that the Agency meets all
16 applicable legal requirements.

17 (H) Implement renewable energy procurement and
18 training programs throughout the State to diversify
19 Illinois electricity supply, improve reliability, avoid
20 and reduce pollution, reduce peak demand, and enhance
21 public health and well-being of Illinois residents,
22 including low-income residents.

23 (Source: P.A. 97-325, eff. 8-12-11; 97-618, eff. 10-26-11;
24 97-813, eff. 7-13-12.)

25 (20 ILCS 3855/1-10)

1 Sec. 1-10. Definitions.

2 "Agency" means the Illinois Power Agency.

3 "Agency loan agreement" means any agreement pursuant to
4 which the Illinois Finance Authority agrees to loan the
5 proceeds of revenue bonds issued with respect to a project to
6 the Agency upon terms providing for loan repayment installments
7 at least sufficient to pay when due all principal of, interest
8 and premium, if any, on those revenue bonds, and providing for
9 maintenance, insurance, and other matters in respect of the
10 project.

11 "Authority" means the Illinois Finance Authority.

12 "Brownfield site photovoltaic project" means photovoltaics
13 that are:

14 (1) interconnected to an electric utility as defined in
15 this Section, a municipal utility as defined in this
16 Section, a public utility as defined in Section 3-105 of
17 the Public Utilities Act, or an electric cooperative, as
18 defined in Section 3-119 of the Public Utilities Act; and

19 (2) located at a site that is regulated by any of the
20 following entities under the following programs:

21 (A) the United States Environmental Protection
22 Agency under the federal Comprehensive Environmental
23 Response, Compensation, and Liability Act of 1980, as
24 amended;

25 (B) the United States Environmental Protection
26 Agency under the Corrective Action Program of the

1 federal Resource Conservation and Recovery Act, as
2 amended;

3 (C) the Illinois Environmental Protection Agency
4 under the Illinois Site Remediation Program; or

5 (D) the Illinois Environmental Protection Agency
6 under the Illinois Solid Waste Program.

7 "Clean coal facility" means an electric generating
8 facility that uses primarily coal as a feedstock and that
9 captures and sequesters carbon dioxide emissions at the
10 following levels: at least 50% of the total carbon dioxide
11 emissions that the facility would otherwise emit if, at the
12 time construction commences, the facility is scheduled to
13 commence operation before 2016, at least 70% of the total
14 carbon dioxide emissions that the facility would otherwise emit
15 if, at the time construction commences, the facility is
16 scheduled to commence operation during 2016 or 2017, and at
17 least 90% of the total carbon dioxide emissions that the
18 facility would otherwise emit if, at the time construction
19 commences, the facility is scheduled to commence operation
20 after 2017. The power block of the clean coal facility shall
21 not exceed allowable emission rates for sulfur dioxide,
22 nitrogen oxides, carbon monoxide, particulates and mercury for
23 a natural gas-fired combined-cycle facility the same size as
24 and in the same location as the clean coal facility at the time
25 the clean coal facility obtains an approved air permit. All
26 coal used by a clean coal facility shall have high volatile

1 bituminous rank and greater than 1.7 pounds of sulfur per
2 million btu content, unless the clean coal facility does not
3 use gasification technology and was operating as a conventional
4 coal-fired electric generating facility on June 1, 2009 (the
5 effective date of Public Act 95-1027).

6 "Clean coal SNG brownfield facility" means a facility that
7 (1) has commenced construction by July 1, 2015 on an urban
8 brownfield site in a municipality with at least 1,000,000
9 residents; (2) uses a gasification process to produce
10 substitute natural gas; (3) uses coal as at least 50% of the
11 total feedstock over the term of any sourcing agreement with a
12 utility and the remainder of the feedstock may be either
13 petroleum coke or coal, with all such coal having a high
14 bituminous rank and greater than 1.7 pounds of sulfur per
15 million Btu content unless the facility reasonably determines
16 that it is necessary to use additional petroleum coke to
17 deliver additional consumer savings, in which case the facility
18 shall use coal for at least 35% of the total feedstock over the
19 term of any sourcing agreement; and (4) captures and sequesters
20 at least 85% of the total carbon dioxide emissions that the
21 facility would otherwise emit.

22 "Clean coal SNG facility" means a facility that uses a
23 gasification process to produce substitute natural gas, that
24 sequesters at least 90% of the total carbon dioxide emissions
25 that the facility would otherwise emit, that uses at least 90%
26 coal as a feedstock, with all such coal having a high

1 bituminous rank and greater than 1.7 pounds of sulfur per
2 million btu content, and that has a valid and effective permit
3 to construct emission sources and air pollution control
4 equipment and approval with respect to the federal regulations
5 for Prevention of Significant Deterioration of Air Quality
6 (PSD) for the plant pursuant to the federal Clean Air Act;
7 provided, however, a clean coal SNG brownfield facility shall
8 not be a clean coal SNG facility.

9 "Commission" means the Illinois Commerce Commission.

10 "Community renewable generation project" means an electric
11 generating facility that:

12 (1) is powered by wind, solar thermal energy,
13 photovoltaic cells or panels, biodiesel, crops and
14 untreated and unadulterated organic waste biomass, tree
15 waste, and hydropower that does not involve new
16 construction or significant expansion of hydropower dams;

17 (2) is interconnected at the distribution system level
18 of an electric utility as defined in this Section, a
19 municipal utility as defined in this Section that owns or
20 operates electric distribution facilities, a public
21 utility as defined in Section 3-105 of the Public Utilities
22 Act, or an electric cooperative, as defined in Section
23 3-119 of the Public Utilities Act;

24 (3) credits the value of electricity generated by the
25 facility to the subscribers of the facility; and

26 (4) is limited in nameplate capacity to less than or

1 equal to 2,000 kilowatts.

2 "Costs incurred in connection with the development and
3 construction of a facility" means:

4 (1) the cost of acquisition of all real property,
5 fixtures, and improvements in connection therewith and
6 equipment, personal property, and other property, rights,
7 and easements acquired that are deemed necessary for the
8 operation and maintenance of the facility;

9 (2) financing costs with respect to bonds, notes, and
10 other evidences of indebtedness of the Agency;

11 (3) all origination, commitment, utilization,
12 facility, placement, underwriting, syndication, credit
13 enhancement, and rating agency fees;

14 (4) engineering, design, procurement, consulting,
15 legal, accounting, title insurance, survey, appraisal,
16 escrow, trustee, collateral agency, interest rate hedging,
17 interest rate swap, capitalized interest, contingency, as
18 required by lenders, and other financing costs, and other
19 expenses for professional services; and

20 (5) the costs of plans, specifications, site study and
21 investigation, installation, surveys, other Agency costs
22 and estimates of costs, and other expenses necessary or
23 incidental to determining the feasibility of any project,
24 together with such other expenses as may be necessary or
25 incidental to the financing, insuring, acquisition, and
26 construction of a specific project and starting up,

1 commissioning, and placing that project in operation.

2 "Delivery services" has the same definition as found in
3 Section 16-102 of the Public Utilities Act.

4 "Delivery year" means the consecutive 12-month period
5 beginning June 1 of a given year and ending May 31 of the
6 following year.

7 "Department" means the Department of Commerce and Economic
8 Opportunity.

9 "Director" means the Director of the Illinois Power Agency.

10 "Demand-response" means measures that decrease peak
11 electricity demand or shift demand from peak to off-peak
12 periods.

13 "Distributed renewable energy generation device" means a
14 device that is:

15 (1) powered by wind, solar thermal energy,
16 photovoltaic cells or ~~and~~ panels, biodiesel, crops and
17 untreated and unadulterated organic waste biomass, tree
18 waste, and hydropower that does not involve new
19 construction or significant expansion of hydropower dams;

20 (2) interconnected at the distribution system level of
21 either an electric utility as defined in this Section, ~~an~~
22 ~~alternative retail electric supplier as defined in Section~~
23 ~~16-102 of the Public Utilities Act,~~ a municipal utility as
24 defined in this Section that owns or operates electric
25 distribution facilities ~~3-105 of the Public Utilities Act,~~
26 or a rural electric cooperative as defined in Section 3-119

1 of the Public Utilities Act;

2 (3) located on the customer side of the customer's
3 electric meter and is primarily used to offset that
4 customer's electricity load; and

5 (4) limited in nameplate capacity to less than or equal
6 to no more than 2,000 kilowatts.

7 "Energy efficiency" means measures that reduce the amount
8 of electricity or natural gas consumed in order ~~required~~ to
9 achieve a given end use. "Energy efficiency" includes voltage
10 optimization measures that optimize the voltage at points on
11 the electric distribution voltage system and thereby reduce
12 electricity consumption by electric customers' end use
13 devices. "Energy efficiency" also includes measures that
14 reduce the total Btus of electricity, ~~and~~ and natural gas, and
15 other fuels needed to meet the end use or uses.

16 "Electric utility" has the same definition as found in
17 Section 16-102 of the Public Utilities Act.

18 "Facility" means an electric generating unit or a
19 co-generating unit that produces electricity along with
20 related equipment necessary to connect the facility to an
21 electric transmission or distribution system.

22 "Governmental aggregator" means one or more units of local
23 government that individually or collectively procure
24 electricity to serve residential retail electrical loads
25 located within its or their jurisdiction.

26 "Local government" means a unit of local government as

1 defined in Section 1 of Article VII of the Illinois
2 Constitution.

3 "Municipality" means a city, village, or incorporated
4 town.

5 "Municipal utility" means a public utility owned and
6 operated by any subdivision or municipal corporation of this
7 State.

8 "Nameplate capacity" means the aggregate inverter
9 nameplate capacity in kilowatts AC.

10 "Person" means any natural person, firm, partnership,
11 corporation, either domestic or foreign, company, association,
12 limited liability company, joint stock company, or association
13 and includes any trustee, receiver, assignee, or personal
14 representative thereof.

15 "Project" means the planning, bidding, and construction of
16 a facility.

17 "Public utility" has the same definition as found in
18 Section 3-105 of the Public Utilities Act.

19 "Real property" means any interest in land together with
20 all structures, fixtures, and improvements thereon, including
21 lands under water and riparian rights, any easements,
22 covenants, licenses, leases, rights-of-way, uses, and other
23 interests, together with any liens, judgments, mortgages, or
24 other claims or security interests related to real property.

25 "Renewable energy credit" means a tradable credit that
26 represents the environmental attributes of one megawatt hour a

1 ~~certain amount~~ of energy produced from a renewable energy
2 resource.

3 "Renewable energy resources" includes energy and its
4 associated renewable energy credit or renewable energy credits
5 from wind, solar thermal energy, photovoltaic cells and panels,
6 biodiesel, anaerobic digestion, crops and untreated and
7 unadulterated organic waste biomass, tree waste, and
8 hydropower that does not involve new construction or
9 significant expansion of hydropower dams, ~~and other~~
10 ~~alternative sources of environmentally preferable energy~~. For
11 purposes of this Act, landfill gas produced in the State is
12 considered a renewable energy resource. "Renewable energy
13 resources" does not include the incineration or burning of
14 tires, garbage, general household, institutional, and
15 commercial waste, industrial lunchroom or office waste,
16 landscape waste other than tree waste, railroad crossties,
17 utility poles, or construction or demolition debris, other than
18 untreated and unadulterated waste wood.

19 "Retail customer" has the same definition as found in
20 Section 16-102 of the Public Utilities Act.

21 "Revenue bond" means any bond, note, or other evidence of
22 indebtedness issued by the Authority, the principal and
23 interest of which is payable solely from revenues or income
24 derived from any project or activity of the Agency.

25 "Sequester" means permanent storage of carbon dioxide by
26 injecting it into a saline aquifer, a depleted gas reservoir,

1 or an oil reservoir, directly or through an enhanced oil
2 recovery process that may involve intermediate storage,
3 regardless of whether these activities are conducted by a clean
4 coal facility, a clean coal SNG facility, a clean coal SNG
5 brownfield facility, or a party with which a clean coal
6 facility, clean coal SNG facility, or clean coal SNG brownfield
7 facility has contracted for such purposes.

8 "Service area" has the same definition as found in Section
9 16-102 of the Public Utilities Act.

10 "Sourcing agreement" means (i) in the case of an electric
11 utility, an agreement between the owner of a clean coal
12 facility and such electric utility, which agreement shall have
13 terms and conditions meeting the requirements of paragraph (3)
14 of subsection (d) of Section 1-75, (ii) in the case of an
15 alternative retail electric supplier, an agreement between the
16 owner of a clean coal facility and such alternative retail
17 electric supplier, which agreement shall have terms and
18 conditions meeting the requirements of Section 16-115(d)(5) of
19 the Public Utilities Act, and (iii) in case of a gas utility,
20 an agreement between the owner of a clean coal SNG brownfield
21 facility and the gas utility, which agreement shall have the
22 terms and conditions meeting the requirements of subsection
23 (h-1) of Section 9-220 of the Public Utilities Act.

24 "Subscriber" means a person who (i) takes delivery service
25 from an electric utility, and (ii) has a subscription of no
26 less than 200 watts to a community renewable generation project

1 that is located in the electric utility's service area. No
2 subscriber's subscriptions may total more than 40% of the
3 nameplate capacity of an individual community renewable
4 generation project. Entities that are affiliated by virtue of a
5 common parent shall not represent multiple subscriptions that
6 total more than 40% of the nameplate capacity of an individual
7 community renewable generation project.

8 "Subscription" means an interest in a community renewable
9 generation project expressed in kilowatts, which is sized
10 primarily to offset part or all of the subscriber's electricity
11 usage.

12 "Substitute natural gas" or "SNG" means a gas manufactured
13 by gasification of hydrocarbon feedstock, which is
14 substantially interchangeable in use and distribution with
15 conventional natural gas.

16 "Total resource cost test" or "TRC test" means a standard
17 that is met if, for an investment in energy efficiency or
18 demand-response measures, the benefit-cost ratio is greater
19 than one. The benefit-cost ratio is the ratio of the net
20 present value of the total benefits of the program to the net
21 present value of the total costs as calculated over the
22 lifetime of the measures. A total resource cost test compares
23 the sum of avoided electric utility costs, representing the
24 benefits that accrue to the system and the participant in the
25 delivery of those efficiency measures and including avoided
26 costs associated with reduced use of natural gas or other

1 fuels, avoided costs associated with reduced water
2 consumption, and avoided costs associated with reduced
3 operation and maintenance costs, as well as other quantifiable
4 societal benefits, ~~including avoided natural gas utility~~
5 ~~costs,~~ to the sum of all incremental costs of end-use measures
6 that are implemented due to the program (including both utility
7 and participant contributions), plus costs to administer,
8 deliver, and evaluate each demand-side program, to quantify the
9 net savings obtained by substituting the demand-side program
10 for supply resources. In calculating avoided costs of power and
11 energy that an electric utility would otherwise have had to
12 acquire, reasonable estimates shall be included of financial
13 costs likely to be imposed by future regulations and
14 legislation on emissions of greenhouse gases. In discounting
15 future societal costs and benefits for the purpose of
16 calculating net present values, a societal discount rate based
17 on actual, long-term Treasury bond yields should be used.
18 Notwithstanding anything to the contrary, the TRC test shall
19 not include or take into account a calculation of market price
20 suppression effects or demand reduction induced price effects.

21 "Utility-scale solar project" means an electric generating
22 facility that:

- 23 (1) generates electricity using photovoltaic cells;
24 and
25 (2) has a nameplate capacity that is greater than 2,000
26 kilowatts.

1 "Utility-scale wind project" means an electric generating
2 facility that:

- 3 (1) generates electricity using wind; and
4 (2) has a nameplate capacity that is greater than 2,000
5 kilowatts.

6 "Zero emission credit" means a tradable credit that
7 represents the environmental attributes of one megawatt hour of
8 energy produced from a zero emission facility.

9 "Zero emission facility" means a facility that: (1) is
10 fueled by nuclear power; and (2) is interconnected with PJM
11 Interconnection, LLC or the Midcontinent Independent System
12 Operator, Inc., or their successors.

13 (Source: P.A. 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-491,
14 eff. 8-22-11; 97-616, eff. 10-26-11; 97-813, eff. 7-13-12;
15 98-90, eff. 7-15-13.)

16 (20 ILCS 3855/1-20)

17 Sec. 1-20. General powers of the Agency.

18 (a) The Agency is authorized to do each of the following:

- 19 (1) Develop electricity procurement plans to ensure
20 adequate, reliable, affordable, efficient, and
21 environmentally sustainable electric service at the lowest
22 total cost over time, taking into account any benefits of
23 price stability, for electric utilities that on December
24 31, 2005 provided electric service to at least 100,000
25 customers in Illinois and for small multi-jurisdictional

1 electric utilities that (A) on December 31, 2005 served
2 less than 100,000 customers in Illinois and (B) request a
3 procurement plan for their Illinois jurisdictional load.
4 Except as provided in paragraph (1.5) of this subsection
5 (a), the electricity ~~The~~ procurement plans shall be updated
6 on an annual basis and shall include electricity generated
7 from renewable resources sufficient to achieve the
8 standards specified in this Act. Beginning with the
9 delivery year commencing June 1, 2017, develop procurement
10 plans to include zero emission credits generated from zero
11 emission facilities sufficient to achieve the standards
12 specified in this Act.

13 (1.5) Develop a long-term renewable resources
14 procurement plan in accordance with subsection (c) of
15 Section 1-75 of this Act for renewable energy credits in
16 amounts sufficient to achieve the standards specified in
17 this Act for delivery years commencing June 1, 2017 and for
18 the programs and renewable energy credits specified in
19 Section 1-56 of this Act. Electricity procurement plans for
20 delivery years commencing after May 31, 2017, shall not
21 include procurement of renewable energy resources.

22 (2) Conduct competitive procurement processes to
23 procure the supply resources identified in the electricity
24 procurement plan, pursuant to Section 16-111.5 of the
25 Public Utilities Act, and, for the delivery year commencing
26 June 1, 2017, conduct procurement processes to procure zero

1 emission credits from zero emission facilities, under
2 subsection (d-5) of Section 1-75 of this Act.

3 (2.5) Beginning with the procurement for the 2017
4 delivery year, conduct competitive procurement processes
5 and implement programs to procure renewable energy credits
6 identified in the long-term renewable resources
7 procurement plan developed and approved under subsection
8 (c) of Section 1-75 of this Act and Section 16-111.5 of the
9 Public Utilities Act.

10 (3) Develop electric generation and co-generation
11 facilities that use indigenous coal or renewable
12 resources, or both, financed with bonds issued by the
13 Illinois Finance Authority.

14 (4) Supply electricity from the Agency's facilities at
15 cost to one or more of the following: municipal electric
16 systems, governmental aggregators, or rural electric
17 cooperatives in Illinois.

18 (b) Except as otherwise limited by this Act, the Agency has
19 all of the powers necessary or convenient to carry out the
20 purposes and provisions of this Act, including without
21 limitation, each of the following:

22 (1) To have a corporate seal, and to alter that seal at
23 pleasure, and to use it by causing it or a facsimile to be
24 affixed or impressed or reproduced in any other manner.

25 (2) To use the services of the Illinois Finance
26 Authority necessary to carry out the Agency's purposes.

1 (3) To negotiate and enter into loan agreements and
2 other agreements with the Illinois Finance Authority.

3 (4) To obtain and employ personnel and hire consultants
4 that are necessary to fulfill the Agency's purposes, and to
5 make expenditures for that purpose within the
6 appropriations for that purpose.

7 (5) To purchase, receive, take by grant, gift, devise,
8 bequest, or otherwise, lease, or otherwise acquire, own,
9 hold, improve, employ, use, and otherwise deal in and with,
10 real or personal property whether tangible or intangible,
11 or any interest therein, within the State.

12 (6) To acquire real or personal property, whether
13 tangible or intangible, including without limitation
14 property rights, interests in property, franchises,
15 obligations, contracts, and debt and equity securities,
16 and to do so by the exercise of the power of eminent domain
17 in accordance with Section 1-21; except that any real
18 property acquired by the exercise of the power of eminent
19 domain must be located within the State.

20 (7) To sell, convey, lease, exchange, transfer,
21 abandon, or otherwise dispose of, or mortgage, pledge, or
22 create a security interest in, any of its assets,
23 properties, or any interest therein, wherever situated.

24 (8) To purchase, take, receive, subscribe for, or
25 otherwise acquire, hold, make a tender offer for, vote,
26 employ, sell, lend, lease, exchange, transfer, or

1 otherwise dispose of, mortgage, pledge, or grant a security
2 interest in, use, and otherwise deal in and with, bonds and
3 other obligations, shares, or other securities (or
4 interests therein) issued by others, whether engaged in a
5 similar or different business or activity.

6 (9) To make and execute agreements, contracts, and
7 other instruments necessary or convenient in the exercise
8 of the powers and functions of the Agency under this Act,
9 including contracts with any person, including personal
10 service contracts, or with any local government, State
11 agency, or other entity; and all State agencies and all
12 local governments are authorized to enter into and do all
13 things necessary to perform any such agreement, contract,
14 or other instrument with the Agency. No such agreement,
15 contract, or other instrument shall exceed 40 years.

16 (10) To lend money, invest and reinvest its funds in
17 accordance with the Public Funds Investment Act, and take
18 and hold real and personal property as security for the
19 payment of funds loaned or invested.

20 (11) To borrow money at such rate or rates of interest
21 as the Agency may determine, issue its notes, bonds, or
22 other obligations to evidence that indebtedness, and
23 secure any of its obligations by mortgage or pledge of its
24 real or personal property, machinery, equipment,
25 structures, fixtures, inventories, revenues, grants, and
26 other funds as provided or any interest therein, wherever

1 situated.

2 (12) To enter into agreements with the Illinois Finance
3 Authority to issue bonds whether or not the income
4 therefrom is exempt from federal taxation.

5 (13) To procure insurance against any loss in
6 connection with its properties or operations in such amount
7 or amounts and from such insurers, including the federal
8 government, as it may deem necessary or desirable, and to
9 pay any premiums therefor.

10 (14) To negotiate and enter into agreements with
11 trustees or receivers appointed by United States
12 bankruptcy courts or federal district courts or in other
13 proceedings involving adjustment of debts and authorize
14 proceedings involving adjustment of debts and authorize
15 legal counsel for the Agency to appear in any such
16 proceedings.

17 (15) To file a petition under Chapter 9 of Title 11 of
18 the United States Bankruptcy Code or take other similar
19 action for the adjustment of its debts.

20 (16) To enter into management agreements for the
21 operation of any of the property or facilities owned by the
22 Agency.

23 (17) To enter into an agreement to transfer and to
24 transfer any land, facilities, fixtures, or equipment of
25 the Agency to one or more municipal electric systems,
26 governmental aggregators, or rural electric agencies or

1 cooperatives, for such consideration and upon such terms as
2 the Agency may determine to be in the best interest of the
3 citizens of Illinois.

4 (18) To enter upon any lands and within any building
5 whenever in its judgment it may be necessary for the
6 purpose of making surveys and examinations to accomplish
7 any purpose authorized by this Act.

8 (19) To maintain an office or offices at such place or
9 places in the State as it may determine.

10 (20) To request information, and to make any inquiry,
11 investigation, survey, or study that the Agency may deem
12 necessary to enable it effectively to carry out the
13 provisions of this Act.

14 (21) To accept and expend appropriations.

15 (22) To engage in any activity or operation that is
16 incidental to and in furtherance of efficient operation to
17 accomplish the Agency's purposes, including hiring
18 employees that the Director deems essential for the
19 operations of the Agency.

20 (23) To adopt, revise, amend, and repeal rules with
21 respect to its operations, properties, and facilities as
22 may be necessary or convenient to carry out the purposes of
23 this Act, subject to the provisions of the Illinois
24 Administrative Procedure Act and Sections 1-22 and 1-35 of
25 this Act.

26 (24) To establish and collect charges and fees as

described in this Act.

(25) To conduct competitive gasification feedstock procurement processes to procure the feedstocks for the clean coal SNG brownfield facility in accordance with the requirements of Section 1-78 of this Act.

(26) To review, revise, and approve sourcing agreements and mediate and resolve disputes between gas utilities and the clean coal SNG brownfield facility pursuant to subsection (h-1) of Section 9-220 of the Public Utilities Act.

(27) To request, review and accept proposals, execute contracts, purchase renewable energy credits and otherwise dedicate funds from the Illinois Power Agency Renewable Energy Resources Fund to create and carry out the objectives of the Illinois Solar for All program in accordance with Section 1-56 of this Act.

(Source: P.A. 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10; 97-96, eff. 7-13-11; 97-325, eff. 8-12-11; 97-618, eff. 10-26-11; 97-813, eff. 7-13-12.)

(20 ILCS 3855/1-25)

Sec. 1-25. Agency subject to other laws. Unless otherwise stated, the Agency is subject to the provisions of all applicable laws, including but not limited to, each of the following:

(1) The State Records Act.

1 (2) The Illinois Procurement Code, except that the
2 Illinois Procurement Code does not apply to the hiring or
3 payment of procurement administrators, ~~or~~ procurement
4 planning consultants, third-party program managers, or
5 other persons who will implement the programs described in
6 Sections 1-56 and ~~pursuant to Section~~ 1-75 of the Illinois
7 Power Agency Act.

8 (3) The Freedom of Information Act.

9 (4) The State Property Control Act.

10 (5) (Blank).

11 (6) The State Officials and Employees Ethics Act.

12 (Source: P.A. 97-618, eff. 10-26-11.)

13 (20 ILCS 3855/1-56)

14 Sec. 1-56. Illinois Power Agency Renewable Energy
15 Resources Fund; Illinois Solar for All Program.

16 (a) The Illinois Power Agency Renewable Energy Resources
17 Fund is created as a special fund in the State treasury.

18 (b) The Illinois Power Agency Renewable Energy Resources
19 Fund shall be administered by the Agency as described in this
20 subsection (b), provided that the changes to this subsection
21 (b) made by this amendatory Act of the 99th General Assembly
22 shall not interfere with existing contracts under this Section.

23 (1) The Illinois Power Agency Renewable Energy
24 Resources Fund shall be used to purchase renewable energy
25 credits according to any approved procurement plan

1 developed by the Agency prior to June 1, 2017.

2 (2) The Illinois Power Agency Renewable Energy
3 Resources Fund shall also be used to create the Illinois
4 Solar for All Program, which shall include incentives for
5 low-income distributed generation and community solar
6 projects, and other associated approved expenditures. The
7 objectives of the Illinois Solar for All Program are to
8 bring photovoltaics to low-income communities in this
9 State in a manner that maximizes the development of new
10 photovoltaic generating facilities, to create a long-term,
11 low-income solar marketplace throughout this State, to
12 integrate, through interaction with stakeholders, with
13 existing energy efficiency initiatives, and to minimize
14 administrative costs. The Agency shall include a
15 description of its proposed approach to the design,
16 administration, implementation and evaluation of the
17 Illinois Solar for All Program, as part of the long-term
18 renewable resources procurement plan authorized by
19 subsection (c) of Section 1-75 of this Act, and the program
20 shall be designed to grow the low-income solar market. The
21 Agency or utility, as applicable, shall purchase renewable
22 energy credits from the (i) photovoltaic distributed
23 renewable energy generation projects and (ii) community
24 solar projects that are procured under procurement
25 processes authorized by the long-term renewable resources
26 procurement plans approved by the Commission.

1 The Illinois Solar for All Program shall include the
2 program offerings described in subparagraphs (A) through
3 (D) of this paragraph (2), which the Agency shall implement
4 through contracts with third-party providers and, subject
5 to appropriation, pay the approximate amounts identified
6 using monies available in the Illinois Power Agency
7 Renewable Energy Resources Fund. Each contract that
8 provides for the installation of solar facilities shall
9 provide that the solar facilities will produce energy and
10 economic benefits, at a level determined by the Agency to
11 be reasonable, for the participating low income customers.
12 The monies available in the Illinois Power Agency Renewable
13 Energy Resources Fund and not otherwise committed to
14 contracts executed under subsection (i) of this Section
15 shall be allocated among the programs described in this
16 paragraph (2), as follows: 22.5% of these funds shall be
17 allocated to programs described in subparagraph (A) of this
18 paragraph (2), 37.5% of these funds shall be allocated to
19 programs described in subparagraph (B) of this paragraph
20 (2), 15% of these funds shall be allocated to programs
21 described in subparagraph (C) of this paragraph (2), and
22 25% of these funds, but in no event more than \$50,000,000,
23 shall be allocated to programs described in subparagraph
24 (D) of this paragraph (2). The allocation of funds among
25 subparagraphs (A), (B), or (C) of this paragraph (2) may be
26 changed if the Agency or administrator, through delegated

1 authority, determines incentives in subparagraphs (A),
2 (B), or (C) of this paragraph (2) have not been adequately
3 subscribed to fully utilize the Illinois Power Agency
4 Renewable Energy Resources Fund. The determination shall
5 include input through a stakeholder process. The program
6 offerings described in subparagraphs (A) through (D) of
7 this paragraph (2) shall also be implemented through
8 contracts funded from such additional amounts as are
9 allocated to one or more of the programs in the long-term
10 renewable resources procurement plans as specified in
11 subsection (c) of Section 1-75 of this Act and subparagraph
12 (O) of paragraph (1) of such subsection (c).

13 Contracts that will be paid with funds in the Illinois
14 Power Agency Renewable Energy Resources Fund shall be
15 executed by the Agency. Contracts that will be paid with
16 funds collected by an electric utility shall be executed by
17 the electric utility.

18 Contracts under the Illinois Solar for All Program
19 shall include an approach, as set forth in the long-term
20 renewable resources procurement plans, to ensure the
21 wholesale market value of the energy is credited to
22 participating low-income customers or organizations and to
23 ensure tangible economic benefits flow directly to program
24 participants, except in the case of low-income
25 multi-family housing where the low-income customer does
26 not directly pay for energy. Priority shall be given to

1 projects that demonstrate meaningful involvement of
2 low-income community members in designing the initial
3 proposals. Acceptable proposals to implement projects must
4 demonstrate the applicant's ability to conduct initial
5 community outreach, education, and recruitment of
6 low-income participants in the community. Projects must
7 include job training opportunities if available, and shall
8 endeavor to coordinate with the job training programs
9 described in paragraph (1) of subsection (a) of Section
10 16-108.12 of the Public Utilities Act.

11 (A) Low-income distributed generation incentive.

12 This program will provide incentives to low-income
13 customers, either directly or through solar providers,
14 to increase the participation of low-income households
15 in photovoltaic on-site distributed generation.
16 Companies participating in this program that install
17 solar panels shall commit to hiring job trainees for a
18 portion of their low-income installations, and an
19 administrator shall facilitate partnering the
20 companies that install solar panels with entities that
21 provide solar panel installation job training. It is a
22 goal of this program that a minimum of 25% of the
23 incentives for this program be allocated to projects
24 located within environmental justice communities.
25 Contracts entered into under this paragraph may be
26 entered into with an entity that will develop and

1 administer the program and shall also include
2 contracts for renewable energy credits from the
3 photovoltaic distributed generation that is the
4 subject of the program, as set forth in the long-term
5 renewable resources procurement plan.

6 (B) Low-Income Community Solar Project Initiative.
7 Incentives shall be offered to low-income customers,
8 either directly or through developers, to increase the
9 participation of low-income subscribers of community
10 solar projects. The developer of each project shall
11 identify its partnership with community stakeholders
12 regarding the location, development, and participation
13 in the project, provided that nothing shall preclude a
14 project from including an anchor tenant that does not
15 qualify as low-income. Incentives should also be
16 offered to community solar projects that are 100%
17 low-income subscriber owned, which includes low-income
18 households, not-for-profit organizations, and
19 affordable housing owners. It is a goal of this program
20 that a minimum of 25% of the incentives for this
21 program be allocated to community photovoltaic
22 projects in environmental justice communities.
23 Contracts entered into under this paragraph may be
24 entered into with developers and shall also include
25 contracts for renewable energy credits related to the
26 program.

1 (C) Incentives for non-profits and public
2 facilities. Under this program funds shall be used to
3 support on-site photovoltaic distributed renewable
4 energy generation devices to serve the load associated
5 with not-for-profit customers and to support
6 photovoltaic distributed renewable energy generation
7 that uses photovoltaic technology to serve the load
8 associated with public sector customers taking service
9 at public buildings. It is a goal of this program that
10 at least 25% of the incentives for this program be
11 allocated to projects located in environmental justice
12 communities. Contracts entered into under this
13 paragraph may be entered into with an entity that will
14 develop and administer the program or with developers
15 and shall also include contracts for renewable energy
16 credits related to the program.

17 (D) Low-Income Community Solar Pilot Projects.
18 Under this program, persons, including, but not
19 limited to, electric utilities, shall propose pilot
20 community solar projects. Community solar projects
21 proposed under this subparagraph (D) may exceed 2,000
22 kilowatts in nameplate capacity, but the amount paid
23 per project under this program may not exceed
24 \$20,000,000. Pilot projects must result in economic
25 benefits for the members of the community in which the
26 project will be located. The proposed pilot project

1 must include a partnership with at least one
2 community-based organization. Approved pilot projects
3 shall be competitively bid by the Agency, subject to
4 fair and equitable guidelines developed by the Agency.
5 Funding available under this subparagraph (D) may not
6 be distributed solely to a utility, and at least some
7 funds under this subparagraph (D) must include a
8 project partnership that includes community ownership
9 by the project subscribers. Contracts entered into
10 under this paragraph may be entered into with an entity
11 that will develop and administer the program or with
12 developers and shall also include contracts for
13 renewable energy credits related to the program. A
14 project proposed by a utility that is implemented under
15 this subparagraph (D) shall not be included in the
16 utility's ratebase.

17 The requirement that a qualified person, as defined in
18 paragraph (1) of subsection (i) of this Section, install
19 photovoltaic devices does not apply to the Illinois Solar
20 for All Program described in this subsection (b).

21 (3) Costs associated with the Illinois Solar for All
22 Program and its components described in paragraph (2) of
23 this subsection (b), including, but not limited to, costs
24 associated with procuring experts, consultants, and the
25 program administrator referenced in this subsection (b)
26 and related incremental costs, and costs related to the

evaluation of the Illinois Solar for All Program, may be
paid for using monies in the Illinois Power Agency
Renewable Energy Resources Fund, but the Agency or program
administrator shall strive to minimize costs in the
implementation of the program. The Agency shall purchase
renewable energy credits from generation that is the
subject of a contract under subparagraphs (A) through (D)
of this paragraph (2) of this subsection (b), and may pay
for such renewable energy credits through an upfront
payment per installed kilowatt of nameplate capacity paid
once the device is interconnected at the distribution
system level of the utility and is energized. The payment
shall be in exchange for an assignment of all renewable
energy credits generated by the system during the first 15
years of operation and shall be structured to overcome
barriers to participation in the solar market by the
low-income community. The incentives provided for in this
Section may be implemented through the pricing of renewable
energy credits where the prices paid for the credits are
higher than the prices from programs offered under
subsection (c) of Section 1-75 of this Act to account for
the incentives. The Agency shall ensure collaboration with
community agencies, and allocate up to 5% of the funds
available under the Illinois Solar for All Program to
community-based groups to assist in grassroots education
efforts related to the Illinois Solar for All Program. The

1 Agency shall retire any renewable energy credits purchased
2 from this program and the credits shall count towards the
3 obligation under subsection (c) of Section 1-75 of this Act
4 for the electric utility to which the project is
5 interconnected.

6 (4) The Agency shall, consistent with the requirements
7 of this subsection (b), propose the Illinois Solar for All
8 Program terms, conditions, and requirements, including the
9 prices to be paid for renewable energy credits, and which
10 prices may be determined through a formula, through the
11 development, review, and approval of the Agency's
12 long-term renewable resources procurement plan described
13 in subsection (c) of Section 1-75 of this Act and Section
14 16-111.5 of the Public Utilities Act. In the course of the
15 Commission proceeding initiated to review and approve the
16 plan, including the Illinois Solar for All Program proposed
17 by the Agency, a party may propose an additional low-income
18 solar or solar incentive program, or modifications to the
19 programs proposed by the Agency, and the Commission may
20 approve an additional program, or modifications to the
21 Agency's proposed program, if the additional or modified
22 program more effectively maximizes the benefits to
23 low-income customers after taking into account all
24 relevant factors, including, but not limited to, the extent
25 to which a competitive market for low-income solar has
26 developed. Following the Commission's approval of the

1 Illinois Solar for All Program, the Agency or a party may
2 propose adjustments to the program terms, conditions, and
3 requirements, including the price offered to new systems,
4 to ensure the long-term viability and success of the
5 program. The Commission shall review and approve any
6 modifications to the program through the plan revision
7 process described in Section 16-111.5 of the Public
8 Utilities Act.

9 (5) The Agency shall issue a request for qualifications
10 for a third-party program administrator or administrators
11 to administer all or a portion of the Illinois Solar for
12 All Program. The third-party program administrator shall
13 be chosen through a competitive bid process based on
14 selection criteria and requirements developed by the
15 Agency, including, but not limited to, experience in
16 administering low-income energy programs and overseeing
17 statewide clean energy or energy efficiency services. If
18 the Agency retains a program administrator or
19 administrators to implement all or a portion of the
20 Illinois Solar for All Program, each administrator shall
21 periodically submit reports to the Agency and Commission
22 for each program that it administers, at appropriate
23 intervals to be identified by the Agency in its long-term
24 renewable resources procurement plan, provided that the
25 reporting interval is at least quarterly.

26 (6) The long-term renewable resources procurement plan

1 shall also provide for an independent evaluation of the
2 Illinois Solar for All Program. At least every 2 years, the
3 Agency shall select an independent evaluator to review and
4 report on the Illinois Solar for All Program and the
5 performance of the third-party program administrator of
6 the Illinois Solar for All Program. The evaluation shall be
7 based on objective criteria developed through a public
8 stakeholder process. The process shall include feedback
9 and participation from Illinois Solar for All Program
10 stakeholders, including participants and organizations in
11 environmental justice and historically underserved
12 communities. The report shall include a summary of the
13 evaluation of the Illinois Solar for All Program based on
14 the stakeholder developed objective criteria. The report
15 shall include the number of projects installed; the total
16 installed capacity in kilowatts; the average cost per
17 kilowatt of installed capacity to the extent reasonably
18 obtainable by the Agency; the number of jobs or job
19 opportunities created; economic, social, and environmental
20 benefits created; and the total administrative costs
21 expended by the Agency and program administrator to
22 implement and evaluate the program. The report shall be
23 delivered to the Commission and posted on the Agency's
24 website, and shall be used, as needed, to revise the
25 Illinois Solar for All Program. The Commission shall also
26 consider the results of the evaluation as part of its

1 review of the long-term renewable resources procurement
2 plan under subsection (c) of Section 1-75 of this Act.

3 (7) If additional funding for the programs described in
4 this subsection (b) is available under subsection (k) of
5 Section 16-108 of the Public Utilities Act, then the Agency
6 shall submit a procurement plan to the Commission no later
7 than September 1, 2018, that proposes how the Agency will
8 procure programs on behalf of the applicable utility. After
9 notice and hearing, the Commission shall approve, or
10 approve with modification, the plan no later than November
11 1, 2018.

12 As used in this subsection (b), "low-income households"
13 means persons and families whose income does not exceed 80% of
14 area median income, adjusted for family size and revised every
15 5 years.

16 For the purposes of this subsection (b), the Agency shall
17 define "environmental justice community" as part of long-term
18 renewable resources procurement plan development, to ensure,
19 to the extent practicable, compatibility with other agencies'
20 definitions and may, for guidance, look to the definitions used
21 by federal, state, or local governments.

22 (b-5) After the receipt of all payments required by Section
23 16-115D of the Public Utilities Act, no additional funds shall
24 be deposited into the Illinois Power Agency Renewable Energy
25 Resources Fund unless directed by order of the Commission.

26 (b-10) After the receipt of all payments required by

1 Section 16-115D of the Public Utilities Act and payment in full
2 of all contracts executed by the Agency under subsections (b)
3 and (i) of this Section, if the balance of the Illinois Power
4 Agency Renewable Energy Resources Fund is under \$5,000, then
5 the Fund shall be inoperative and any remaining funds and any
6 funds submitted to the Fund after that date, shall be
7 transferred to the Supplemental Low-Income Energy Assistance
8 Fund for use in the Low-Income Home Energy Assistance Program,
9 as authorized by the Energy Assistance Act. ~~to procure~~
10 ~~renewable energy resources. Prior to June 1, 2011, resources~~
11 ~~procured pursuant to this Section shall be procured from~~
12 ~~facilities located in Illinois, provided the resources are~~
13 ~~available from those facilities. If resources are not available~~
14 ~~in Illinois, then they shall be procured in states that adjoin~~
15 ~~Illinois. If resources are not available in Illinois or in~~
16 ~~states that adjoin Illinois, then they may be purchased~~
17 ~~elsewhere. Beginning June 1, 2011, resources procured pursuant~~
18 ~~to this Section shall be procured from facilities located in~~
19 ~~Illinois or states that adjoin Illinois. If resources are not~~
20 ~~available in Illinois or in states that adjoin Illinois, then~~
21 ~~they may be procured elsewhere. To the extent available, at~~
22 ~~least 75% of these renewable energy resources shall come from~~
23 ~~wind generation. Of the renewable energy resources procured~~
24 ~~pursuant to this Section at least the following specified~~
25 ~~percentages shall come from photovoltaics on the following~~
26 ~~schedule: 0.5% by June 1, 2012; 1.5% by June 1, 2013; 3% by~~

1 ~~June 1, 2014; and 6% by June 1, 2015 and thereafter. Of the~~
2 ~~renewable energy resources procured pursuant to this Section,~~
3 ~~at least the following percentages shall come from distributed~~
4 ~~renewable energy generation devices: 0.5% by June 1, 2013,~~
5 ~~0.75% by June 1, 2014, and 1% by June 1, 2015 and thereafter.~~
6 ~~To the extent available, half of the renewable energy resources~~
7 ~~procured from distributed renewable energy generation shall~~
8 ~~come from devices of less than 25 kilowatts in nameplate~~
9 ~~capacity. Renewable energy resources procured from distributed~~
10 ~~generation devices may also count towards the required~~
11 ~~percentages for wind and solar photovoltaics. Procurement of~~
12 ~~renewable energy resources from distributed renewable energy~~
13 ~~generation devices shall be done on an annual basis through~~
14 ~~multi-year contracts of no less than 5 years, and shall consist~~
15 ~~solely of renewable energy credits.~~

16 ~~The Agency shall create credit requirements for suppliers~~
17 ~~of distributed renewable energy. In order to minimize the~~
18 ~~administrative burden on contracting entities, the Agency~~
19 ~~shall solicit the use of third party organizations to aggregate~~
20 ~~distributed renewable energy into groups of no less than one~~
21 ~~megawatt in installed capacity. These third party~~
22 ~~organizations shall administer contracts with individual~~
23 ~~distributed renewable energy generation device owners. An~~
24 ~~individual distributed renewable energy generation device~~
25 ~~owner shall have the ability to measure the output of his or~~
26 ~~her distributed renewable energy generation device.~~

1 (c) (Blank). ~~The Agency shall procure renewable energy~~
2 ~~resources at least once each year in conjunction with a~~
3 ~~procurement event for electric utilities required to comply~~
4 ~~with Section 1-75 of the Act and shall, whenever possible,~~
5 ~~enter into long term contracts on an annual basis for a portion~~
6 ~~of the incremental requirement for the given procurement year.~~

7 (d) (Blank). ~~The price paid to procure renewable energy~~
8 ~~credits using monies from the Illinois Power Agency Renewable~~
9 ~~Energy Resources Fund shall not exceed the winning bid prices~~
10 ~~paid for like resources procured for electric utilities~~
11 ~~required to comply with Section 1-75 of this Act.~~

12 (e) All renewable energy credits procured using monies from
13 the Illinois Power Agency Renewable Energy Resources Fund shall
14 be permanently retired.

15 (f) The selection of one or more third-party program
16 managers or administrators, the selection of the independent
17 evaluator, and the procurement processes described in this
18 Section are exempt from the requirements of the Illinois
19 Procurement Code, under Section 20-10 of that Code. ~~The~~
20 ~~procurement process described in this Section is exempt from~~
21 ~~the requirements of the Illinois Procurement Code, pursuant to~~
22 ~~Section 20-10 of that Code.~~

23 (g) All disbursements from the Illinois Power Agency
24 Renewable Energy Resources Fund shall be made only upon
25 warrants of the Comptroller drawn upon the Treasurer as
26 custodian of the Fund upon vouchers signed by the Director or

1 by the person or persons designated by the Director for that
2 purpose. The Comptroller is authorized to draw the warrant upon
3 vouchers so signed. The Treasurer shall accept all warrants so
4 signed and shall be released from liability for all payments
5 made on those warrants.

6 (h) The Illinois Power Agency Renewable Energy Resources
7 Fund shall not be subject to sweeps, administrative charges, or
8 chargebacks, including, but not limited to, those authorized
9 under Section 8h of the State Finance Act, that would in any
10 way result in the transfer of any funds from this Fund to any
11 other fund of this State or in having any such funds utilized
12 for any purpose other than the express purposes set forth in
13 this Section.

14 (h-5) The Agency may assess fees to each bidder to recover
15 the costs incurred in connection with a procurement process
16 held under this Section. Fees collected from bidders shall be
17 deposited into the Renewable Energy Resources Fund.

18 (i) Supplemental procurement process.

19 (1) Within 90 days after the effective date of this
20 amendatory Act of the 98th General Assembly, the Agency
21 shall develop a one-time supplemental procurement plan
22 limited to the procurement of renewable energy credits, if
23 available, from new or existing photovoltaics, including,
24 but not limited to, distributed photovoltaic generation.
25 Nothing in this subsection (i) requires procurement of wind
26 generation through the supplemental procurement.

1 Renewable energy credits procured from new
2 photovoltaics, including, but not limited to, distributed
3 photovoltaic generation, under this subsection (i) must be
4 procured from devices installed by a qualified person. In
5 its supplemental procurement plan, the Agency shall
6 establish contractually enforceable mechanisms for
7 ensuring that the installation of new photovoltaics is
8 performed by a qualified person.

9 For the purposes of this paragraph (1), "qualified
10 person" means a person who performs installations of
11 photovoltaics, including, but not limited to, distributed
12 photovoltaic generation, and who: (A) has completed an
13 apprenticeship as a journeyman electrician from a United
14 States Department of Labor registered electrical
15 apprenticeship and training program and received a
16 certification of satisfactory completion; or (B) does not
17 currently meet the criteria under clause (A) of this
18 paragraph (1), but is enrolled in a United States
19 Department of Labor registered electrical apprenticeship
20 program, provided that the person is directly supervised by
21 a person who meets the criteria under clause (A) of this
22 paragraph (1); or (C) has obtained one of the following
23 credentials in addition to attesting to satisfactory
24 completion of at least 5 years or 8,000 hours of documented
25 hands-on electrical experience: (i) a North American Board
26 of Certified Energy Practitioners (NABCEP) Installer

1 Certificate for Solar PV; (ii) an Underwriters
2 Laboratories (UL) PV Systems Installer Certificate; (iii)
3 an Electronics Technicians Association, International
4 (ETAI) Level 3 PV Installer Certificate; or (iv) an
5 Associate in Applied Science degree from an Illinois
6 Community College Board approved community college program
7 in renewable energy or a distributed generation
8 technology.

9 For the purposes of this paragraph (1), "directly
10 supervised" means that there is a qualified person who
11 meets the qualifications under clause (A) of this paragraph
12 (1) and who is available for supervision and consultation
13 regarding the work performed by persons under clause (B) of
14 this paragraph (1), including a final inspection of the
15 installation work that has been directly supervised to
16 ensure safety and conformity with applicable codes.

17 For the purposes of this paragraph (1), "install" means
18 the major activities and actions required to connect, in
19 accordance with applicable building and electrical codes,
20 the conductors, connectors, and all associated fittings,
21 devices, power outlets, or apparatuses mounted at the
22 premises that are directly involved in delivering energy to
23 the premises' electrical wiring from the photovoltaics,
24 including, but not limited to, to distributed photovoltaic
25 generation.

26 The renewable energy credits procured pursuant to the

1 supplemental procurement plan shall be procured using up to
2 \$30,000,000 from the Illinois Power Agency Renewable
3 Energy Resources Fund. The Agency shall not plan to use
4 funds from the Illinois Power Agency Renewable Energy
5 Resources Fund in excess of the monies on deposit in such
6 fund or projected to be deposited into such fund. The
7 supplemental procurement plan shall ensure adequate,
8 reliable, affordable, efficient, and environmentally
9 sustainable renewable energy resources (including credits)
10 at the lowest total cost over time, taking into account any
11 benefits of price stability.

12 To the extent available, 50% of the renewable energy
13 credits procured from distributed renewable energy
14 generation shall come from devices of less than 25
15 kilowatts in nameplate capacity. Procurement of renewable
16 energy credits from distributed renewable energy
17 generation devices shall be done through multi-year
18 contracts of no less than 5 years. The Agency shall create
19 credit requirements for counterparties. In order to
20 minimize the administrative burden on contracting
21 entities, the Agency shall solicit the use of third parties
22 to aggregate distributed renewable energy. These third
23 parties shall enter into and administer contracts with
24 individual distributed renewable energy generation device
25 owners. An individual distributed renewable energy
26 generation device owner shall have the ability to measure

1 the output of his or her distributed renewable energy
2 generation device.

3 In developing the supplemental procurement plan, the
4 Agency shall hold at least one workshop open to the public
5 within 90 days after the effective date of this amendatory
6 Act of the 98th General Assembly and shall consider any
7 comments made by stakeholders or the public. Upon
8 development of the supplemental procurement plan within
9 this 90-day period, copies of the supplemental procurement
10 plan shall be posted and made publicly available on the
11 Agency's and Commission's websites. All interested parties
12 shall have 14 days following the date of posting to provide
13 comment to the Agency on the supplemental procurement plan.
14 All comments submitted to the Agency shall be specific,
15 supported by data or other detailed analyses, and, if
16 objecting to all or a portion of the supplemental
17 procurement plan, accompanied by specific alternative
18 wording or proposals. All comments shall be posted on the
19 Agency's and Commission's websites. Within 14 days
20 following the end of the 14-day review period, the Agency
21 shall revise the supplemental procurement plan as
22 necessary based on the comments received and file its
23 revised supplemental procurement plan with the Commission
24 for approval.

25 (2) Within 5 days after the filing of the supplemental
26 procurement plan at the Commission, any person objecting to

1 the supplemental procurement plan shall file an objection
2 with the Commission. Within 10 days after the filing, the
3 Commission shall determine whether a hearing is necessary.
4 The Commission shall enter its order confirming or
5 modifying the supplemental procurement plan within 90 days
6 after the filing of the supplemental procurement plan by
7 the Agency.

8 (3) The Commission shall approve the supplemental
9 procurement plan of renewable energy credits to be procured
10 from new or existing photovoltaics, including, but not
11 limited to, distributed photovoltaic generation, if the
12 Commission determines that it will ensure adequate,
13 reliable, affordable, efficient, and environmentally
14 sustainable electric service in the form of renewable
15 energy credits at the lowest total cost over time, taking
16 into account any benefits of price stability.

17 (4) The supplemental procurement process under this
18 subsection (i) shall include each of the following
19 components:

20 (A) Procurement administrator. The Agency may
21 retain a procurement administrator in the manner set
22 forth in item (2) of subsection (a) of Section 1-75 of
23 this Act to conduct the supplemental procurement or may
24 elect to use the same procurement administrator
25 administering the Agency's annual procurement under
26 Section 1-75.

1 (B) Procurement monitor. The procurement monitor
2 retained by the Commission pursuant to Section
3 16-111.5 of the Public Utilities Act shall:

4 (i) monitor interactions among the procurement
5 administrator and bidders and suppliers;

6 (ii) monitor and report to the Commission on
7 the progress of the supplemental procurement
8 process;

9 (iii) provide an independent confidential
10 report to the Commission regarding the results of
11 the procurement events;

12 (iv) assess compliance with the procurement
13 plan approved by the Commission for the
14 supplemental procurement process;

15 (v) preserve the confidentiality of supplier
16 and bidding information in a manner consistent
17 with all applicable laws, rules, regulations, and
18 tariffs;

19 (vi) provide expert advice to the Commission
20 and consult with the procurement administrator
21 regarding issues related to procurement process
22 design, rules, protocols, and policy-related
23 matters;

24 (vii) consult with the procurement
25 administrator regarding the development and use of
26 benchmark criteria, standard form contracts,

1 credit policies, and bid documents; and

2 (viii) perform, with respect to the
3 supplemental procurement process, any other
4 procurement monitor duties specifically delineated
5 within subsection (i) of this Section.

6 (C) Solicitation, pre-qualification, and
7 registration of bidders. The procurement administrator
8 shall disseminate information to potential bidders to
9 promote a procurement event, notify potential bidders
10 that the procurement administrator may enter into a
11 post-bid price negotiation with bidders that meet the
12 applicable benchmarks, provide supply requirements,
13 and otherwise explain the competitive procurement
14 process. In addition to such other publication as the
15 procurement administrator determines is appropriate,
16 this information shall be posted on the Agency's and
17 the Commission's websites. The procurement
18 administrator shall also administer the
19 prequalification process, including evaluation of
20 credit worthiness, compliance with procurement rules,
21 and agreement to the standard form contract developed
22 pursuant to item (D) of this paragraph (4). The
23 procurement administrator shall then identify and
24 register bidders to participate in the procurement
25 event.

26 (D) Standard contract forms and credit terms and

1 instruments. The procurement administrator, in
2 consultation with the Agency, the Commission, and
3 other interested parties and subject to Commission
4 oversight, shall develop and provide standard contract
5 forms for the supplier contracts that meet generally
6 accepted industry practices as well as include any
7 applicable State of Illinois terms and conditions that
8 are required for contracts entered into by an agency of
9 the State of Illinois. Standard credit terms and
10 instruments that meet generally accepted industry
11 practices shall be similarly developed. Contracts for
12 new photovoltaics shall include a provision attesting
13 that the supplier will use a qualified person for the
14 installation of the device pursuant to paragraph (1) of
15 subsection (i) of this Section. The procurement
16 administrator shall make available to the Commission
17 all written comments it receives on the contract forms,
18 credit terms, or instruments. If the procurement
19 administrator cannot reach agreement with the parties
20 as to the contract terms and conditions, the
21 procurement administrator must notify the Commission
22 of any disputed terms and the Commission shall resolve
23 the dispute. The terms of the contracts shall not be
24 subject to negotiation by winning bidders, and the
25 bidders must agree to the terms of the contract in
26 advance so that winning bids are selected solely on the

1 basis of price.

2 (E) Requests for proposals; competitive
3 procurement process. The procurement administrator
4 shall design and issue requests for proposals to supply
5 renewable energy credits in accordance with the
6 supplemental procurement plan, as approved by the
7 Commission. The requests for proposals shall set forth
8 a procedure for sealed, binding commitment bidding
9 with pay-as-bid settlement, and provision for
10 selection of bids on the basis of price, provided,
11 however, that no bid shall be accepted if it exceeds
12 the benchmark developed pursuant to item (F) of this
13 paragraph (4).

14 (F) Benchmarks. Benchmarks for each product to be
15 procured shall be developed by the procurement
16 administrator in consultation with Commission staff,
17 the Agency, and the procurement monitor for use in this
18 supplemental procurement.

19 (G) A plan for implementing contingencies in the
20 event of supplier default, Commission rejection of
21 results, or any other cause.

22 (5) Within 2 business days after opening the sealed
23 bids, the procurement administrator shall submit a
24 confidential report to the Commission. The report shall
25 contain the results of the bidding for each of the products
26 along with the procurement administrator's recommendation

1 for the acceptance and rejection of bids based on the price
2 benchmark criteria and other factors observed in the
3 process. The procurement monitor also shall submit a
4 confidential report to the Commission within 2 business
5 days after opening the sealed bids. The report shall
6 contain the procurement monitor's assessment of bidder
7 behavior in the process as well as an assessment of the
8 procurement administrator's compliance with the
9 procurement process and rules. The Commission shall review
10 the confidential reports submitted by the procurement
11 administrator and procurement monitor and shall accept or
12 reject the recommendations of the procurement
13 administrator within 2 business days after receipt of the
14 reports.

15 (6) Within 3 business days after the Commission
16 decision approving the results of a procurement event, the
17 Agency shall enter into binding contractual arrangements
18 with the winning suppliers using the standard form
19 contracts.

20 (7) The names of the successful bidders and the average
21 of the winning bid prices for each contract type and for
22 each contract term shall be made available to the public
23 within 2 days after the supplemental procurement event. The
24 Commission, the procurement monitor, the procurement
25 administrator, the Agency, and all participants in the
26 procurement process shall maintain the confidentiality of

1 all other supplier and bidding information in a manner
2 consistent with all applicable laws, rules, regulations,
3 and tariffs. Confidential information, including the
4 confidential reports submitted by the procurement
5 administrator and procurement monitor pursuant to this
6 Section, shall not be made publicly available and shall not
7 be discoverable by any party in any proceeding, absent a
8 compelling demonstration of need, nor shall those reports
9 be admissible in any proceeding other than one for law
10 enforcement purposes.

11 (8) The supplemental procurement provided in this
12 subsection (i) shall not be subject to the requirements and
13 limitations of subsections (c) and (d) of this Section.

14 (9) Expenses incurred in connection with the
15 procurement process held pursuant to this Section,
16 including, but not limited to, the cost of developing the
17 supplemental procurement plan, the procurement
18 administrator, procurement monitor, and the cost of the
19 retirement of renewable energy credits purchased pursuant
20 to the supplemental procurement shall be paid for from the
21 Illinois Power Agency Renewable Energy Resources Fund. The
22 Agency shall enter into an interagency agreement with the
23 Commission to reimburse the Commission for its costs
24 associated with the procurement monitor for the
25 supplemental procurement process.

26 (Source: P.A. 97-616, eff. 10-26-11; 98-672, eff. 6-30-14.)

1 (20 ILCS 3855/1-75)

2 Sec. 1-75. Planning and Procurement Bureau. The Planning
3 and Procurement Bureau has the following duties and
4 responsibilities:

5 (a) The Planning and Procurement Bureau shall each year,
6 beginning in 2008, develop procurement plans and conduct
7 competitive procurement processes in accordance with the
8 requirements of Section 16-111.5 of the Public Utilities Act
9 for the eligible retail customers of electric utilities that on
10 December 31, 2005 provided electric service to at least 100,000
11 customers in Illinois. Beginning with the delivery year
12 commencing on June 1, 2017, the Planning and Procurement Bureau
13 shall develop plans and processes for the procurement of zero
14 emission credits from zero emission facilities in accordance
15 with the requirements of subsection (d-5) of this Section. The
16 Planning and Procurement Bureau shall also develop procurement
17 plans and conduct competitive procurement processes in
18 accordance with the requirements of Section 16-111.5 of the
19 Public Utilities Act for the eligible retail customers of small
20 multi-jurisdictional electric utilities that (i) on December
21 31, 2005 served less than 100,000 customers in Illinois and
22 (ii) request a procurement plan for their Illinois
23 jurisdictional load. This Section shall not apply to a small
24 multi-jurisdictional utility until such time as a small
25 multi-jurisdictional utility requests the Agency to prepare a

1 procurement plan for their Illinois jurisdictional load. For
2 the purposes of this Section, the term "eligible retail
3 customers" has the same definition as found in Section
4 16-111.5(a) of the Public Utilities Act.

5 Beginning with the plan or plans to be implemented in the
6 2017 delivery year, the Agency shall no longer include the
7 procurement of renewable energy resources in the annual
8 procurement plans required by this subsection (a), except as
9 provided in subsection (g) of Section 16-111.5 of the Public
10 Utilities Act, and shall instead develop a long-term renewable
11 resources procurement plan in accordance with subsection (c) of
12 this Section and Section 16-111.5 of the Public Utilities Act.

13 (1) The Agency shall each year, beginning in 2008, as
14 needed, issue a request for qualifications for experts or
15 expert consulting firms to develop the procurement plans in
16 accordance with Section 16-111.5 of the Public Utilities
17 Act. In order to qualify an expert or expert consulting
18 firm must have:

19 (A) direct previous experience assembling
20 large-scale power supply plans or portfolios for
21 end-use customers;

22 (B) an advanced degree in economics, mathematics,
23 engineering, risk management, or a related area of
24 study;

25 (C) 10 years of experience in the electricity
26 sector, including managing supply risk;

1 (D) expertise in wholesale electricity market
2 rules, including those established by the Federal
3 Energy Regulatory Commission and regional transmission
4 organizations;

5 (E) expertise in credit protocols and familiarity
6 with contract protocols;

7 (F) adequate resources to perform and fulfill the
8 required functions and responsibilities; and

9 (G) the absence of a conflict of interest and
10 inappropriate bias for or against potential bidders or
11 the affected electric utilities.

12 (2) The Agency shall each year, as needed, issue a
13 request for qualifications for a procurement administrator
14 to conduct the competitive procurement processes in
15 accordance with Section 16-111.5 of the Public Utilities
16 Act. In order to qualify an expert or expert consulting
17 firm must have:

18 (A) direct previous experience administering a
19 large-scale competitive procurement process;

20 (B) an advanced degree in economics, mathematics,
21 engineering, or a related area of study;

22 (C) 10 years of experience in the electricity
23 sector, including risk management experience;

24 (D) expertise in wholesale electricity market
25 rules, including those established by the Federal
26 Energy Regulatory Commission and regional transmission

1 organizations;

2 (E) expertise in credit and contract protocols;

3 (F) adequate resources to perform and fulfill the
4 required functions and responsibilities; and

5 (G) the absence of a conflict of interest and
6 inappropriate bias for or against potential bidders or
7 the affected electric utilities.

8 (3) The Agency shall provide affected utilities and
9 other interested parties with the lists of qualified
10 experts or expert consulting firms identified through the
11 request for qualifications processes that are under
12 consideration to develop the procurement plans and to serve
13 as the procurement administrator. The Agency shall also
14 provide each qualified expert's or expert consulting
15 firm's response to the request for qualifications. All
16 information provided under this subparagraph shall also be
17 provided to the Commission. The Agency may provide by rule
18 for fees associated with supplying the information to
19 utilities and other interested parties. These parties
20 shall, within 5 business days, notify the Agency in writing
21 if they object to any experts or expert consulting firms on
22 the lists. Objections shall be based on:

23 (A) failure to satisfy qualification criteria;

24 (B) identification of a conflict of interest; or

25 (C) evidence of inappropriate bias for or against
26 potential bidders or the affected utilities.

1 The Agency shall remove experts or expert consulting
2 firms from the lists within 10 days if there is a
3 reasonable basis for an objection and provide the updated
4 lists to the affected utilities and other interested
5 parties. If the Agency fails to remove an expert or expert
6 consulting firm from a list, an objecting party may seek
7 review by the Commission within 5 days thereafter by filing
8 a petition, and the Commission shall render a ruling on the
9 petition within 10 days. There is no right of appeal of the
10 Commission's ruling.

11 (4) The Agency shall issue requests for proposals to
12 the qualified experts or expert consulting firms to develop
13 a procurement plan for the affected utilities and to serve
14 as procurement administrator.

15 (5) The Agency shall select an expert or expert
16 consulting firm to develop procurement plans based on the
17 proposals submitted and shall award contracts of up to 5
18 years to those selected.

19 (6) The Agency shall select an expert or expert
20 consulting firm, with approval of the Commission, to serve
21 as procurement administrator based on the proposals
22 submitted. If the Commission rejects, within 5 days, the
23 Agency's selection, the Agency shall submit another
24 recommendation within 3 days based on the proposals
25 submitted. The Agency shall award a 5-year contract to the
26 expert or expert consulting firm so selected with

1 Commission approval.

2 (b) The experts or expert consulting firms retained by the
3 Agency shall, as appropriate, prepare procurement plans, and
4 conduct a competitive procurement process as prescribed in
5 Section 16-111.5 of the Public Utilities Act, to ensure
6 adequate, reliable, affordable, efficient, and environmentally
7 sustainable electric service at the lowest total cost over
8 time, taking into account any benefits of price stability, for
9 eligible retail customers of electric utilities that on
10 December 31, 2005 provided electric service to at least 100,000
11 customers in the State of Illinois, and for eligible Illinois
12 retail customers of small multi-jurisdictional electric
13 utilities that (i) on December 31, 2005 served less than
14 100,000 customers in Illinois and (ii) request a procurement
15 plan for their Illinois jurisdictional load.

16 (c) Renewable portfolio standard.

17 (1)(A) The Agency shall develop a long-term renewable
18 resources procurement plan that shall include procurement
19 programs and competitive procurement events necessary to
20 meet the goals set forth in this subsection (c). The
21 initial long-term renewable resources procurement plan
22 shall be released for comment no later than 160 days after
23 the effective date of this amendatory Act of the 99th
24 General Assembly. The Agency shall review, and may revise
25 on an expedited basis, the long-term renewable resources
26 procurement plan at least every 2 years, which shall be

1 conducted in conjunction with the procurement plan under
2 Section 16-111.5 of the Public Utilities Act to the extent
3 practicable to minimize administrative expense. The
4 long-term renewable resources procurement plans shall be
5 subject to review and approval by the Commission under
6 Section 16-111.5 of the Public Utilities Act.

7 (B) Subject to subparagraph (F) of this paragraph (1),
8 the long-term renewable resources procurement plan shall
9 include the goals for procurement of renewable energy
10 credits to meet at least the following overall percentages:
11 13% by the 2017 delivery year; increasing by at least 1.5%
12 each delivery year thereafter to at least 25% by the 2025
13 delivery year; and continuing at no less than 25% for each
14 delivery year thereafter. In the event of a conflict
15 between these goals and the new wind and new photovoltaic
16 procurement requirements described in items (i) through
17 (iii) of subparagraph (C) of this paragraph (1), the
18 long-term plan shall prioritize compliance with the new
19 wind and new photovoltaic procurement requirements
20 described in items (i) through (iii) of subparagraph (C) of
21 this paragraph (1) over the annual percentage targets
22 described in this subparagraph (B).

23 For the delivery year beginning June 1, 2017, the
24 procurement plan shall include cost-effective renewable energy
25 resources equal to at least 13% of each utility's load for
26 eligible retail customers and 13% of the applicable portion of

1 each utility's load for retail customers who are not eligible
2 retail customers, which applicable portion shall equal 50% of
3 the utility's load for retail customers who are not eligible
4 retail customers on February 28, 2017.

5 For the delivery year beginning June 1, 2018, the
6 procurement plan shall include cost-effective renewable energy
7 resources equal to at least 14.5% of each utility's load for
8 eligible retail customers and 14.5% of the applicable portion
9 of each utility's load for retail customers who are not
10 eligible retail customers, which applicable portion shall
11 equal 75% of the utility's load for retail customers who are
12 not eligible retail customers on February 28, 2017.

13 For the delivery year beginning June 1, 2019, and for each
14 year thereafter, the procurement plans shall include
15 cost-effective renewable energy resources equal to a minimum
16 percentage of each utility's load for all retail customers as
17 follows: 16% by June 1, 2019; increasing by 1.5% each year
18 thereafter to 25% by June 1, 2025; and 25% by June 1, 2026 and
19 each year thereafter.

20 For each delivery year, the Agency shall first
21 recognize each utility's obligations for that delivery
22 year under existing contracts. Any renewable energy
23 credits under existing contracts, including renewable
24 energy credits as part of renewable energy resources, shall
25 be used to meet the goals set forth in this subsection (c)
26 for the delivery year.

1 (C) Of the renewable energy credits procured under this
2 subsection (c), at least 75% shall come from wind and
3 photovoltaic projects. The long-term renewable resources
4 procurement plan described in subparagraph (A) of this
5 paragraph (1) shall include the procurement of renewable
6 energy credits in amounts equal to at least the following:

7 (i) By the end of the 2020 delivery year:

8 At least 2,000,000 renewable energy credits
9 for each delivery year shall come from new wind
10 projects; and

11 At least 2,000,000 renewable energy credits
12 for each delivery year shall come from new
13 photovoltaic projects; of that amount, to the
14 extent possible, the Agency shall procure: at
15 least 50% from solar photovoltaic projects using
16 the program outlined in subparagraph (K) of this
17 paragraph (1) from distributed renewable energy
18 generation devices or community renewable
19 generation projects; at least 40% from
20 utility-scale solar projects; at least 2% from
21 brownfield site photovoltaic projects that are not
22 community renewable generation projects; and the
23 remainder shall be determined through the
24 long-term planning process described in
25 subparagraph (A) of this paragraph (1).

26 (ii) By the end of the 2025 delivery year:

1 At least 3,000,000 renewable energy credits
2 for each delivery year shall come from new wind
3 projects; and

4 At least 3,000,000 renewable energy credits
5 for each delivery year shall come from new
6 photovoltaic projects; of that amount, to the
7 extent possible, the Agency shall procure: at
8 least 50% from solar photovoltaic projects using
9 the program outlined in subparagraph (K) of this
10 paragraph (1) from distributed renewable energy
11 devices or community renewable generation
12 projects; at least 40% from utility-scale solar
13 projects; at least 2% from brownfield site
14 photovoltaic projects that are not community
15 renewable generation projects; and the remainder
16 shall be determined through the long-term planning
17 process described in subparagraph (A) of this
18 paragraph (1).

19 (iii) By the end of the 2030 delivery year:

20 At least 4,000,000 renewable energy credits
21 for each delivery year shall come from new wind
22 projects; and

23 At least 4,000,000 renewable energy credits
24 for each delivery year shall come from new
25 photovoltaic projects; of that amount, to the
26 extent possible, the Agency shall procure: at

1 least 50% from solar photovoltaic projects using
2 the program outlined in subparagraph (K) of this
3 paragraph (1) from distributed renewable energy
4 devices or community renewable generation
5 projects; at least 40% from utility-scale solar
6 projects; at least 2% from brownfield site
7 photovoltaic projects that are not community
8 renewable generation projects; and the remainder
9 shall be determined through the long-term planning
10 process described in subparagraph (A) of this
11 paragraph (1).

12 For purposes of this Section:

13 "New wind projects" means wind renewable
14 energy facilities that are energized after June 1,
15 2017 for the delivery year commencing June 1, 2017
16 or within 3 years after the date the Commission
17 approves contracts for subsequent delivery years.

18 "New photovoltaic projects" means photovoltaic
19 renewable energy facilities that are energized
20 after June 1, 2017. Photovoltaic projects
21 developed under Section 1-56 of this Act shall not
22 apply towards the new photovoltaic project
23 requirements in this subparagraph (C).

24 (D) Renewable energy credits shall be cost effective.

25 For purposes of this subsection (c), "cost effective" means
26 that the costs of procuring renewable energy resources do

1 not cause the limit stated in subparagraph (E) of this
2 paragraph (1) to be exceeded and, for renewable energy
3 credits procured through a competitive procurement event,
4 do not exceed benchmarks based on market prices for like
5 products in the region. For purposes of this subsection
6 (c), "like products" means contracts for renewable energy
7 credits from the same or substantially similar technology,
8 same or substantially similar vintage (new or existing),
9 the same or substantially similar quantity, and the same or
10 substantially similar contract length and structure.
11 Benchmarks shall be developed by the procurement
12 administrator, in consultation with the Commission staff,
13 Agency staff, and the procurement monitor and shall be
14 subject to Commission review and approval. If price
15 benchmarks for like products in the region are not
16 available, the procurement administrator shall establish
17 price benchmarks based on publicly available data on
18 regional technology costs and expected current and future
19 regional energy prices. The benchmarks in this Section
20 shall not be used to curtail or otherwise reduce
21 contractual obligations entered into by or through the
22 Agency prior to the effective date of this amendatory Act
23 of the 99th General Assembly.

24 (E) For purposes of this subsection (c), the required
25 procurement of cost-effective renewable energy resources
26 for a particular year commencing prior to June 1, 2017

1 shall be measured as a percentage of the actual amount of
2 electricity (megawatt-hours) supplied by the electric
3 utility to eligible retail customers in the delivery year
4 ending immediately prior to the procurement, and, for
5 delivery years commencing on and after June 1, 2017, the
6 required procurement of cost-effective renewable energy
7 resources for a particular year shall be measured as a
8 percentage of the actual amount of electricity
9 (megawatt-hours) delivered by the electric utility in the
10 delivery year ending immediately prior to the procurement,
11 to all retail customers in its service territory. For
12 purposes of this subsection (c), the amount paid per
13 kilowatthour means the total amount paid for electric
14 service expressed on a per kilowatthour basis. For purposes
15 of this subsection (c), the total amount paid for electric
16 service includes without limitation amounts paid for
17 supply, transmission, distribution, surcharges, and add-on
18 taxes.

19 Notwithstanding the requirements of this subsection
20 (c), the total of renewable energy resources procured under
21 the procurement plan for any single year shall be subject
22 to the limitations of this subparagraph (E). Such
23 procurement shall be reduced for all retail customers based
24 on the amount necessary to limit the annual estimated
25 average net increase due to the costs of these resources
26 included in the amounts paid by eligible retail customers

1 in connection with electric service to no more than the
2 greater of 2.015% of the amount paid per kilowatthour by
3 those customers during the year ending May 31, 2007 or the
4 incremental amount per kilowatthour paid for these
5 resources in 2011. To arrive at a maximum dollar amount of
6 renewable energy resources to be procured for the
7 particular delivery year, the resulting per kilowatthour
8 amount shall be applied to the actual amount of
9 kilowatthours of electricity delivered, or applicable
10 portion of such amount as specified in paragraph (1) of
11 this subsection (c), as applicable, by the electric utility
12 in the delivery year immediately prior to the procurement
13 to all retail customers in its service territory. The
14 calculations required by this subparagraph (E) shall be
15 made only once for each delivery year at the time that the
16 renewable energy resources are procured. Once the
17 determination as to the amount of renewable energy
18 resources to procure is made based on the calculations set
19 forth in this subparagraph (E) and the contracts procuring
20 those amounts are executed, no subsequent rate impact
21 determinations shall be made and no adjustments to those
22 contract amounts shall be allowed. All costs incurred under
23 such contracts shall be fully recoverable by the electric
24 utility as provided in this Section.

25 (F) If the limitation on the amount of renewable energy
26 resources procured in subparagraph (E) of this paragraph

1 (1) prevents the Agency from meeting all of the goals in
2 this subsection (c), the Agency's long-term plan shall
3 prioritize compliance with the requirements of this
4 subsection (c) regarding renewable energy credits in the
5 following order:

6 (i) renewable energy credits under existing
7 contractual obligations;

8 (i-5) funding for the Illinois Solar for All
9 Program, as described in subparagraph (O) of this
10 paragraph (1);

11 (ii) renewable energy credits necessary to comply
12 with the new wind and new photovoltaic procurement
13 requirements described in items (i) through (iii) of
14 subparagraph (C) of this paragraph (1); and

15 (iii) renewable energy credits necessary to meet
16 the remaining requirements of this subsection (c).

17 (G) The following provisions shall apply to the
18 Agency's procurement of renewable energy credits under
19 this subsection (c):

20 (i) Notwithstanding whether a long-term renewable
21 resources procurement plan has been approved, the
22 Agency shall conduct an initial forward procurement
23 for renewable energy credits from new utility-scale
24 wind projects within 160 days after the effective date
25 of this amendatory Act of the 99th General Assembly.
26 For the purposes of this initial forward procurement,

1 the Agency shall solicit 15-year contracts for
2 delivery of 1,000,000 renewable energy credits
3 delivered annually from new utility-scale wind
4 projects to begin delivery on June 1, 2019, if
5 available, but not later than June 1, 2021. Payments to
6 suppliers of renewable energy credits shall commence
7 upon delivery. Renewable energy credits procured under
8 this initial procurement shall be included in the
9 Agency's long-term plan and shall apply to all
10 renewable energy goals in this subsection (c).

11 (ii) Notwithstanding whether a long-term renewable
12 resources procurement plan has been approved, the
13 Agency shall conduct an initial forward procurement
14 for renewable energy credits from new utility-scale
15 solar projects and brownfield site photovoltaic
16 projects within one year after the effective date of
17 this amendatory Act of the 99th General Assembly. For
18 the purposes of this initial forward procurement, the
19 Agency shall solicit 15-year contracts for delivery of
20 1,000,000 renewable energy credits delivered annually
21 from new utility-scale solar projects and brownfield
22 site photovoltaic projects to begin delivery on June 1,
23 2019, if available, but not later than June 1, 2021.
24 The Agency may structure this initial procurement in
25 one or more discrete procurement events. Payments to
26 suppliers of renewable energy credits shall commence

1 upon delivery. Renewable energy credits procured under
2 this initial procurement shall be included in the
3 Agency's long-term plan and shall apply to all
4 renewable energy goals in this subsection (c).

5 (iii) Subsequent forward procurements for
6 utility-scale wind projects shall solicit at least
7 1,000,000 renewable energy credits delivered annually
8 per procurement event and shall be planned, scheduled,
9 and designed such that the cumulative amount of
10 renewable energy credits delivered from all new wind
11 projects in each delivery year shall not exceed the
12 Agency's projection of the cumulative amount of
13 renewable energy credits that will be delivered from
14 all new photovoltaic projects, including utility-scale
15 and distributed photovoltaic devices, in the same
16 delivery year at the time scheduled for wind contract
17 delivery.

18 (iv) If, at any time after the time set for
19 delivery of renewable energy credits pursuant to the
20 initial procurements in items (i) and (ii) of this
21 subparagraph (G), the cumulative amount of renewable
22 energy credits projected to be delivered from all new
23 wind projects in a given delivery year exceeds the
24 cumulative amount of renewable energy credits
25 projected to be delivered from all new photovoltaic
26 projects in that delivery year by 200,000 or more

renewable energy credits, then the Agency shall within
60 days adjust the procurement programs in the
long-term renewable resources procurement plan to
ensure that the projected cumulative amount of
renewable energy credits to be delivered from all new
wind projects does not exceed the projected cumulative
amount of renewable energy credits to be delivered from
all new photovoltaic projects by 200,000 or more
renewable energy credits, provided that nothing in
this Section shall preclude the projected cumulative
amount of renewable energy credits to be delivered from
all new photovoltaic projects from exceeding the
projected cumulative amount of renewable energy
credits to be delivered from all new wind projects in
each delivery year and provided further that nothing in
this item (iv) shall require the curtailment of an
executed contract. The Agency shall update, on a
quarterly basis, its projection of the renewable
energy credits to be delivered from all projects in
each delivery year. Notwithstanding anything to the
contrary, the Agency may adjust the timing of
procurement events conducted under this subparagraph
(G). The long-term renewable resources procurement
plan shall set forth the process by which the
adjustments may be made.

(v) All procurements under this subparagraph (G)

1 shall comply with the geographic requirements in
2 subparagraph (I) of this paragraph (1) and shall follow
3 the procurement processes and procedures described in
4 this Section and Section 16-111.5 of the Public
5 Utilities Act to the extent practicable, and these
6 processes and procedures may be expedited to
7 accommodate the schedule established by this
8 subparagraph (G).

9 (H) The procurement of renewable energy resources for a
10 given delivery year shall be reduced as described in this
11 subparagraph (H) if an alternate retail electric supplier
12 meets the requirements described in this subparagraph (H).

13 (i) Within 45 days after the effective date of this
14 amendatory Act of the 99th General Assembly, an
15 alternative retail electric supplier or its successor
16 shall submit an informational filing to the Illinois
17 Commerce Commission certifying that, as of December
18 31, 2015, the alternative retail electric supplier
19 owned one or more electric generating facilities that
20 generates renewable energy resources as defined in
21 Section 1-10 of this Act, provided that such facilities
22 are not powered by wind or photovoltaics, and the
23 facilities generate one renewable energy credit for
24 each megawatthour of energy produced from the
25 facility.

26 The informational filing shall identify each

1 facility that was eligible to satisfy the alternative
2 retail electric supplier's obligations under Section
3 16-115D of the Public Utilities Act as described in
4 this item (i).

5 (ii) For a given delivery year, the alternative
6 retail electric supplier may elect to supply its retail
7 customers with renewable energy credits from the
8 facility or facilities described in item (i) of this
9 subparagraph (H) that continue to be owned by the
10 alternative retail electric supplier.

11 (iii) The alternative retail electric supplier
12 shall notify the Agency and the applicable utility, no
13 later than February 28 of the year preceding the
14 applicable delivery year or 15 days after the effective
15 date of this amendatory Act of the 99th General
16 Assembly, whichever is later, of its election under
17 item (ii) of this subparagraph (H) to supply renewable
18 energy credits to retail customers of the utility. Such
19 election shall identify the amount of renewable energy
20 credits to be supplied by the alternative retail
21 electric supplier to the utility's retail customers
22 and the source of the renewable energy credits
23 identified in the informational filing as described in
24 item (i) of this subparagraph (H), subject to the
25 following limitations:

26 For the delivery year beginning June 1, 2018,

1 the maximum amount of renewable energy credits to
2 be supplied by an alternative retail electric
3 supplier under this subparagraph (H) shall be 68%
4 multiplied by 25% multiplied by 14.5% multiplied
5 by the amount of metered electricity
6 (megawatt-hours) delivered by the alternative
7 retail electric supplier to Illinois retail
8 customers during the delivery year ending May 31,
9 2016.

10 For delivery years beginning June 1, 2019 and
11 each year thereafter, the maximum amount of
12 renewable energy credits to be supplied by an
13 alternative retail electric supplier under this
14 subparagraph (H) shall be 68% multiplied by 50%
15 multiplied by 16% multiplied by the amount of
16 metered electricity (megawatt-hours) delivered by
17 the alternative retail electric supplier to
18 Illinois retail customers during the delivery year
19 ending May 31, 2016, provided that the 16% value
20 shall increase by 1.5% each delivery year
21 thereafter to 25% by the delivery year beginning
22 June 1, 2025, and thereafter the 25% value shall
23 apply to each delivery year.

24 For each delivery year, the total amount of
25 renewable energy credits supplied by all alternative
26 retail electric suppliers under this subparagraph (H)

1 shall not exceed 9% of the Illinois target renewable
2 energy credit quantity. The Illinois target renewable
3 energy credit quantity for the delivery year beginning
4 June 1, 2018 is 14.5% multiplied by the total amount of
5 metered electricity (megawatt-hours) delivered in the
6 delivery year immediately preceding that delivery
7 year, provided that the 14.5% shall increase by 1.5%
8 each delivery year thereafter to 25% by the delivery
9 year beginning June 1, 2025, and thereafter the 25%
10 value shall apply to each delivery year.

11 If the requirements set forth in items (i) through
12 (iii) of this subparagraph (H) are met, the charges
13 that would otherwise be applicable to the retail
14 customers of the alternative retail electric supplier
15 under paragraph (6) of this subsection (c) for the
16 applicable delivery year shall be reduced by the ratio
17 of the quantity of renewable energy credits supplied by
18 the alternative retail electric supplier compared to
19 that supplier's target renewable energy credit
20 quantity. The supplier's target renewable energy
21 credit quantity for the delivery year beginning June 1,
22 2018 is 14.5% multiplied by the total amount of metered
23 electricity (megawatt-hours) delivered by the
24 alternative retail supplier in that delivery year,
25 provided that the 14.5% shall increase by 1.5% each
26 delivery year thereafter to 25% by the delivery year

1 beginning June 1, 2025, and thereafter the 25% value
2 shall apply to each delivery year.

3 On or before April 1 of each year, the Agency shall
4 annually publish a report on its website that
5 identifies the aggregate amount of renewable energy
6 credits supplied by alternative retail electric
7 suppliers under this subparagraph (H).

8 (I) The Agency shall design its long-term renewable
9 energy procurement plan to maximize the State's interest in
10 the health, safety, and welfare of its residents, including
11 but not limited to minimizing sulfur dioxide, nitrogen
12 oxide, particulate matter and other pollution that
13 adversely affects public health in this State, increasing
14 fuel and resource diversity in this State, enhancing the
15 reliability and resiliency of the electricity distribution
16 system in this State, meeting goals to limit carbon dioxide
17 emissions under federal or State law, and contributing to a
18 cleaner and healthier environment for the citizens of this
19 State. In order to further these legislative purposes,
20 renewable energy credits shall be eligible to be counted
21 toward the renewable energy requirements of this
22 subsection (c) if they are generated from facilities
23 located in this State. The Agency may qualify renewable
24 energy credits from facilities located in states adjacent
25 to Illinois if the generator demonstrates and the Agency
26 determines that the operation of such facility or

1 facilities will help promote the State's interest in the
2 health, safety, and welfare of its residents based on the
3 public interest criteria described above. To ensure that
4 the public interest criteria are applied to the procurement
5 and given full effect, the Agency's long-term procurement
6 plan shall describe in detail how each public interest
7 factor shall be considered and weighted for facilities
8 located in states adjacent to Illinois.

9 (J) In order to promote the competitive development of
10 renewable energy resources in furtherance of the State's
11 interest in the health, safety, and welfare of its
12 residents, renewable energy credits shall not be eligible
13 to be counted toward the renewable energy requirements of
14 this subsection (c) if they are sourced from a generating
15 unit whose costs were being recovered through rates
16 regulated by this State or any other state or states on or
17 after January 1, 2017. Each contract executed to purchase
18 renewable energy credits under this subsection (c) shall
19 provide for the contract's termination if the costs of the
20 generating unit supplying the renewable energy credits
21 subsequently begin to be recovered through rates regulated
22 by this State or any other state or states; and each
23 contract shall further provide that, in that event, the
24 supplier of the credits must return 110% of all payments
25 received under the contract. Amounts returned under the
26 requirements of this subparagraph (J) shall be retained by

1 the utility and all of these amounts shall be used for the
2 procurement of additional renewable energy credits from
3 new wind or new photovoltaic resources as defined in this
4 subsection (c). The long-term plan shall provide that these
5 renewable energy credits shall be procured in the next
6 procurement event.

7 Notwithstanding the limitations of this subparagraph
8 (J), renewable energy credits sourced from generating
9 units that are constructed, purchased, owned, or leased by
10 an electric utility as part of an approved project,
11 program, or pilot under Section 1-56 of this Act shall be
12 eligible to be counted toward the renewable energy
13 requirements of this subsection (c), regardless of how the
14 costs of these units are recovered.

15 (K) The long-term renewable resources procurement plan
16 developed by the Agency in accordance with subparagraph (A)
17 of this paragraph (1) shall include an Adjustable Block
18 program for the procurement of renewable energy credits
19 from new photovoltaic projects that are distributed
20 renewable energy generation devices or new photovoltaic
21 community renewable generation projects. The Adjustable
22 Block program shall be designed to provide a transparent
23 schedule of prices and quantities to enable the
24 photovoltaic market to scale up and for renewable energy
25 credit prices to adjust at a predictable rate over time.
26 The prices set by the Adjustable Block program can be

1 reflected as a set value or as the product of a formula.

2 The Adjustable Block program shall include for each
3 category of eligible projects: a schedule of standard block
4 purchase prices to be offered; a series of steps, with
5 associated nameplate capacity and purchase prices that
6 adjust from step to step; and automatic opening of the next
7 step as soon as the nameplate capacity and available
8 purchase prices for an open step are fully committed or
9 reserved. Only projects energized on or after June 1, 2017
10 shall be eligible for the Adjustable Block program. For
11 each block group the Agency shall determine the number of
12 blocks, the amount of generation capacity in each block,
13 and the purchase price for each block, provided that the
14 purchase price provided and the total amount of generation
15 in all blocks for all block groups shall be sufficient to
16 meet the goals in this subsection (c). The Agency may
17 periodically review its prior decisions establishing the
18 number of blocks, the amount of generation capacity in each
19 block, and the purchase price for each block, and may
20 propose, on an expedited basis, changes to these previously
21 set values, including but not limited to redistributing
22 these amounts and the available funds as necessary and
23 appropriate, subject to Commission approval as part of the
24 periodic plan revision process described in Section
25 16-111.5 of the Public Utilities Act. The Agency may define
26 different block sizes, purchase prices, or other distinct

1 terms and conditions for projects located in different
2 utility service territories if the Agency deems it
3 necessary to meet the goals in this subsection (c).

4 The Adjustable Block program shall include at least the
5 following block groups in at least the following amounts,
6 which may be adjusted upon review by the Agency and
7 approval by the Commission as described in this
8 subparagraph (K):

9 (i) At least 25% from distributed renewable energy
10 generation devices with a nameplate capacity of no more
11 than 10 kilowatts.

12 (ii) At least 25% from distributed renewable
13 energy generation devices with a nameplate capacity of
14 more than 10 kilowatts and no more than 2,000
15 kilowatts. The Agency may create sub-categories within
16 this category to account for the differences between
17 projects for small commercial customers, large
18 commercial customers, and public or non-profit
19 customers.

20 (iii) At least 25% from photovoltaic community
21 renewable generation projects.

22 (iv) The remaining 25% shall be allocated as
23 specified by the Agency in the long-term renewable
24 resources procurement plan.

25 The Adjustable Block program shall be designed to
26 ensure that renewable energy credits are procured from

1 photovoltaic distributed renewable energy generation
2 devices and new photovoltaic community renewable energy
3 generation projects in diverse locations and are not
4 concentrated in a few geographic areas.

5 (L) The procurement of photovoltaic renewable energy
6 credits under items (i) through (iv) of subparagraph (K) of
7 this paragraph (1) shall be subject to the following
8 contract and payment terms:

9 (i) The Agency shall procure contracts of at least
10 15 years in length.

11 (ii) For those renewable energy credits that
12 qualify and are procured under item (i) of subparagraph
13 (K) of this paragraph (1), the renewable energy credit
14 purchase price shall be paid in full by the contracting
15 utilities at the time that the facility producing the
16 renewable energy credits is interconnected at the
17 distribution system level of the utility and
18 energized. The electric utility shall receive and
19 retire all renewable energy credits generated by the
20 project for the first 15 years of operation.

21 (iii) For those renewable energy credits that
22 qualify and are procured under item (ii) and (iii) of
23 subparagraph (K) of this paragraph (1) and any
24 additional categories of distributed generation
25 included in the long-term renewable resources
26 procurement plan and approved by the Commission, 20

1 percent of the renewable energy credit purchase price
2 shall be paid by the contracting utilities at the time
3 that the facility producing the renewable energy
4 credits is interconnected at the distribution system
5 level of the utility and energized. The remaining
6 portion shall be paid ratably over the subsequent
7 4-year period. The electric utility shall receive and
8 retire all renewable energy credits generated by the
9 project for the first 15 years of operation.

10 (iv) Each contract shall include provisions to
11 ensure the delivery of the renewable energy credits for
12 the full term of the contract.

13 (v) The utility shall be the counterparty to the
14 contracts executed under this subparagraph (L) that
15 are approved by the Commission under the process
16 described in Section 16-111.5 of the Public Utilities
17 Act. No contract shall be executed for an amount that
18 is less than one renewable energy credit per year.

19 (vi) If, at any time, approved applications for the
20 Adjustable Block program exceed funds collected by the
21 electric utility or would cause the Agency to exceed
22 the limitation described in subparagraph (E) of this
23 paragraph (1) on the amount of renewable energy
24 resources that may be procured, then the Agency shall
25 consider future uncommitted funds to be reserved for
26 these contracts on a first-come, first-served basis,

1 with the delivery of renewable energy credits required
2 beginning at the time that the reserved funds become
3 available.

4 (vii) Nothing in this Section shall require the
5 utility to advance any payment or pay any amounts that
6 exceed the actual amount of revenues collected by the
7 utility under paragraph (6) of this subsection (c) and
8 subsection (k) of Section 16-108 of the Public
9 Utilities Act, and contracts executed under this
10 Section shall expressly incorporate this limitation.

11 (M) The Agency shall be authorized to retain one or
12 more experts or expert consulting firms to develop,
13 administer, implement, operate, and evaluate the
14 Adjustable Block program described in subparagraph (K) of
15 this paragraph (1), and the Agency shall retain the
16 consultant or consultants in the same manner, to the extent
17 practicable, as the Agency retains others to administer
18 provisions of this Act, including, but not limited to, the
19 procurement administrator. The selection of experts and
20 expert consulting firms and the procurement process
21 described in this subparagraph (M) are exempt from the
22 requirements of Section 20-10 of the Illinois Procurement
23 Code, under Section 20-10 of that Code. The Agency shall
24 strive to minimize administrative expenses in the
25 implementation of the Adjustable Block program.

26 The Agency and its consultant or consultants shall

1 monitor block activity, share program activity with
2 stakeholders and conduct regularly scheduled meetings to
3 discuss program activity and market conditions. If
4 necessary, the Agency may make prospective administrative
5 adjustments to the Adjustable Block program design, such as
6 redistributing available funds or making adjustments to
7 purchase prices as necessary to achieve the goals of this
8 subsection (c). Program modifications to any price,
9 capacity block, or other program element that do not
10 deviate from the Commission's approved value by more than
11 25% shall take effect immediately and are not subject to
12 Commission review and approval. Program modifications to
13 any price, capacity block, or other program element that
14 deviate more than 25% from the Commission's approved value
15 must be approved by the Commission as a long-term plan
16 amendment under Section 16-111.5 of the Public Utilities
17 Act. The Agency shall consider stakeholder feedback when
18 making adjustments to the Adjustable Block design and shall
19 notify stakeholders in advance of any planned changes.

20 (N) The long-term renewable resources procurement plan
21 required by this subsection (c) shall include a community
22 renewable generation program. The Agency shall establish
23 the terms, conditions, and program requirements for
24 community renewable generation projects with a goal to
25 expand renewable energy generating facility access to a
26 broader group of energy consumers, to ensure robust

1 participation opportunities for residential and small
2 commercial customers and those who cannot install
3 renewable energy on their own properties. Any plan approved
4 by the Commission shall allow subscriptions to community
5 renewable generation projects to be portable and
6 transferable. For purposes of this subparagraph (N),
7 "portable" means that subscriptions may be retained by the
8 subscriber even if the subscriber relocates or changes its
9 address within the same utility service territory; and
10 "transferable" means that a subscriber may assign or sell
11 subscriptions to another person within the same utility
12 service territory.

13 Electric utilities shall provide a monetary credit to a
14 subscriber's subsequent bill for service for the
15 proportional output of a community renewable generation
16 project attributable to that subscriber as specified in
17 Section 16-107.5 of the Public Utilities Act.

18 The Agency shall purchase renewable energy credits
19 from subscribed shares of photovoltaic community renewable
20 generation projects through the Adjustable Block program
21 described in subparagraph (K) of this paragraph (1) or
22 through the Illinois Solar for All Program described in
23 Section 1-56 of this Act. The electric utility shall
24 purchase any unsubscribed energy from community renewable
25 generation projects that are Qualifying Facilities ("QF")
26 under the electric utility's tariff for purchasing the

1 output from QFs under Public Utilities Regulatory Policies
2 Act of 1978.

3 The owners of and any subscribers to a community
4 renewable generation project shall not be considered
5 public utilities or alternative retail electricity
6 suppliers under the Public Utilities Act solely as a result
7 of their interest in or subscription to a community
8 renewable generation project and shall not be required to
9 become an alternative retail electric supplier by
10 participating in a community renewable generation project
11 with a public utility.

12 (O) For the delivery year beginning June 1, 2018, the
13 long-term renewable resources procurement plan required by
14 this subsection (c) shall provide for the Agency to procure
15 contracts to continue offering the Illinois Solar for All
16 Program described in subsection (b) of Section 1-56 of this
17 Act, and the contracts approved by the Commission shall be
18 executed by the utilities that are subject to this
19 subsection (c). The long-term renewable resources
20 procurement plan shall allocate 5% of the funds available
21 under the plan for the applicable delivery year, or
22 \$10,000,000 per delivery year, whichever is greater, to
23 fund the programs, and the plan shall determine the amount
24 of funding to be apportioned to the programs identified in
25 subsection (b) of Section 1-56 of this Act; provided that
26 for the delivery years beginning June 1, 2017, June 1,

1 2021, and June 1, 2025, the long-term renewable resources
2 procurement plan shall allocate 10% of the funds available
3 under the plan for the applicable delivery year, or
4 \$20,000,000 per delivery year, whichever is greater, and
5 \$10,000,000 of such funds in such year shall be used by an
6 electric utility that serves more than 3,000,000 retail
7 customers in the State to implement a Commission-approved
8 plan under Section 16-108.12 of the Public Utilities Act.
9 In making the determinations required under this
10 subparagraph (O), the Commission shall consider the
11 experience and performance under the programs and any
12 evaluation reports. The Commission shall also provide for
13 an independent evaluation of those programs on a periodic
14 basis that are funded under this subparagraph (O). ~~The~~
15 ~~procurement plans shall include cost-effective renewable~~
16 ~~energy resources. A minimum percentage of each utility's~~
17 ~~total supply to serve the load of eligible retail~~
18 ~~customers, as defined in Section 16-111.5(a) of the Public~~
19 ~~Utilities Act, procured for each of the following years~~
20 ~~shall be generated from cost-effective renewable energy~~
21 ~~resources: at least 2% by June 1, 2008; at least 4% by June~~
22 ~~1, 2009; at least 5% by June 1, 2010; at least 6% by June 1,~~
23 ~~2011; at least 7% by June 1, 2012; at least 8% by June 1,~~
24 ~~2013; at least 9% by June 1, 2014; at least 10% by June 1,~~
25 ~~2015; and increasing by at least 1.5% each year thereafter~~
26 ~~to at least 25% by June 1, 2025. To the extent that it is~~

1 ~~available, at least 75% of the renewable energy resources~~
2 ~~used to meet these standards shall come from wind~~
3 ~~generation and, beginning on June 1, 2011, at least the~~
4 ~~following percentages of the renewable energy resources~~
5 ~~used to meet these standards shall come from photovoltaics~~
6 ~~on the following schedule: 0.5% by June 1, 2012, 1.5% by~~
7 ~~June 1, 2013, 3% by June 1, 2014, and 6% by June 1, 2015 and~~
8 ~~thereafter. Of the renewable energy resources procured~~
9 ~~pursuant to this Section, at least the following~~
10 ~~percentages shall come from distributed renewable energy~~
11 ~~generation devices: 0.5% by June 1, 2013, 0.75% by June 1,~~
12 ~~2014, and 1% by June 1, 2015 and thereafter. To the extent~~
13 ~~available, half of the renewable energy resources procured~~
14 ~~from distributed renewable energy generation shall come~~
15 ~~from devices of less than 25 kilowatts in nameplate~~
16 ~~capacity. Renewable energy resources procured from~~
17 ~~distributed generation devices may also count towards the~~
18 ~~required percentages for wind and solar photovoltaics.~~
19 ~~Procurement of renewable energy resources from distributed~~
20 ~~renewable energy generation devices shall be done on an~~
21 ~~annual basis through multi-year contracts of no less than 5~~
22 ~~years, and shall consist solely of renewable energy~~
23 ~~credits.~~

24 ~~The Agency shall create credit requirements for~~
25 ~~suppliers of distributed renewable energy. In order to~~
26 ~~minimize the administrative burden on contracting~~

1 ~~entities, the Agency shall solicit the use of third-party~~
2 ~~organizations to aggregate distributed renewable energy~~
3 ~~into groups of no less than one megawatt in installed~~
4 ~~capacity. These third-party organizations shall administer~~
5 ~~contracts with individual distributed renewable energy~~
6 ~~generation device owners. An individual distributed~~
7 ~~renewable energy generation device owner shall have the~~
8 ~~ability to measure the output of his or her distributed~~
9 ~~renewable energy generation device.~~

10 ~~For purposes of this subsection (c), "cost effective"~~
11 ~~means that the costs of procuring renewable energy~~
12 ~~resources do not cause the limit stated in paragraph (2) of~~
13 ~~this subsection (c) to be exceeded and do not exceed~~
14 ~~benchmarks based on market prices for renewable energy~~
15 ~~resources in the region, which shall be developed by the~~
16 ~~procurement administrator, in consultation with the~~
17 ~~Commission staff, Agency staff, and the procurement~~
18 ~~monitor and shall be subject to Commission review and~~
19 ~~approval.~~

20 ~~(2) (Blank). For purposes of this subsection (c), the~~
21 ~~required procurement of cost-effective renewable energy~~
22 ~~resources for a particular year shall be measured as a~~
23 ~~percentage of the actual amount of electricity~~
24 ~~(megawatt-hours) supplied by the electric utility to~~
25 ~~eligible retail customers in the planning year ending~~
26 ~~immediately prior to the procurement. For purposes of this~~

~~subsection (c), the amount paid per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For purposes of this subsection (c), the total amount paid for electric service includes without limitation amounts paid for supply, transmission, distribution, surcharges, and add on taxes.~~

~~Notwithstanding the requirements of this subsection (c), the total of renewable energy resources procured pursuant to the procurement plan for any single year shall be reduced by an amount necessary to limit the annual estimated average net increase due to the costs of these resources included in the amounts paid by eligible retail customers in connection with electric service to:~~

~~(A) in 2008, no more than 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;~~

~~(B) in 2009, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2008 or 1% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;~~

~~(C) in 2010, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009 or 1.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;~~

1 ~~(D) in 2011, the greater of an additional 0.5% of~~
2 ~~the amount paid per kilowatthour by those customers~~
3 ~~during the year ending May 31, 2010 or 2% of the amount~~
4 ~~paid per kilowatthour by those customers during the~~
5 ~~year ending May 31, 2007; and~~

6 ~~(E) thereafter, the amount of renewable energy~~
7 ~~resources procured pursuant to the procurement plan~~
8 ~~for any single year shall be reduced by an amount~~
9 ~~necessary to limit the estimated average net increase~~
10 ~~due to the cost of these resources included in the~~
11 ~~amounts paid by eligible retail customers in~~
12 ~~connection with electric service to no more than the~~
13 ~~greater of 2.015% of the amount paid per kilowatthour~~
14 ~~by those customers during the year ending May 31, 2007~~
15 ~~or the incremental amount per kilowatthour paid for~~
16 ~~these resources in 2011.~~

17 ~~No later than June 30, 2011, the Commission shall~~
18 ~~review the limitation on the amount of renewable energy~~
19 ~~resources procured pursuant to this subsection (c) and~~
20 ~~report to the General Assembly its findings as to~~
21 ~~whether that limitation unduly constrains the~~
22 ~~procurement of cost effective renewable energy~~
23 ~~resources.~~

24 (3) (Blank). ~~Through June 1, 2011, renewable energy~~
25 ~~resources shall be counted for the purpose of meeting the~~
26 ~~renewable energy standards set forth in paragraph (1) of~~

~~this subsection (c) only if they are generated from facilities located in the State, provided that cost-effective renewable energy resources are available from those facilities. If those cost-effective resources are not available in Illinois, they shall be procured in states that adjoin Illinois and may be counted towards compliance. If those cost-effective resources are not available in Illinois or in states that adjoin Illinois, they shall be purchased elsewhere and shall be counted towards compliance. After June 1, 2011, cost-effective renewable energy resources located in Illinois and in states that adjoin Illinois may be counted towards compliance with the standards set forth in paragraph (1) of this subsection (c). If those cost-effective resources are not available in Illinois or in states that adjoin Illinois, they shall be purchased elsewhere and shall be counted towards compliance.~~

(4) The electric utility shall retire all renewable energy credits used to comply with the standard.

(5) Beginning with the 2010 delivery year and ending June 1, 2017 ~~year commencing June 1, 2010~~, an electric utility subject to this subsection (c) shall apply the lesser of the maximum alternative compliance payment rate or the most recent estimated alternative compliance payment rate for its service territory for the corresponding compliance period, established pursuant to

1 subsection (d) of Section 16-115D of the Public Utilities
2 Act to its retail customers that take service pursuant to
3 the electric utility's hourly pricing tariff or tariffs.
4 The electric utility shall retain all amounts collected as
5 a result of the application of the alternative compliance
6 payment rate or rates to such customers, and, beginning in
7 2011, the utility shall include in the information provided
8 under item (1) of subsection (d) of Section 16-111.5 of the
9 Public Utilities Act the amounts collected under the
10 alternative compliance payment rate or rates for the prior
11 year ending May 31. Notwithstanding any limitation on the
12 procurement of renewable energy resources imposed by item
13 (2) of this subsection (c), the Agency shall increase its
14 spending on the purchase of renewable energy resources to
15 be procured by the electric utility for the next plan year
16 by an amount equal to the amounts collected by the utility
17 under the alternative compliance payment rate or rates in
18 the prior year ending May 31.

19 (6) The electric utility shall be entitled to recover
20 all of its costs associated with the procurement of
21 renewable energy credits under plans approved under this
22 Section and Section 16-111.5 of the Public Utilities Act.
23 These costs shall include associated reasonable expenses
24 for implementing the procurement programs, including, but
25 not limited to, the costs of administering and evaluating
26 the Adjustable Block program, through an automatic

1 adjustment clause tariff in accordance with subsection (k)
2 of Section 16-108 of the Public Utilities Act.

3 (7) Renewable energy credits procured from new
4 photovoltaic projects or new distributed renewable energy
5 generation devices under this Section after the effective
6 date of this amendatory Act of the 99th General Assembly
7 must be procured from devices installed by a qualified
8 person in compliance with the requirements of Section
9 16-128A of the Public Utilities Act and any rules or
10 regulations adopted thereunder.

11 In meeting the renewable energy requirements of this
12 subsection (c), to the extent feasible and consistent with
13 State and federal law, the renewable energy credit
14 procurements, Adjustable Block solar program, and
15 community renewable generation program shall provide
16 employment opportunities for all segments of the
17 population and workforce, including minority-owned and
18 female-owned business enterprises, and shall not,
19 consistent with State and federal law, discriminate based
20 on race or socioeconomic status.

21 (d) Clean coal portfolio standard.

22 (1) The procurement plans shall include electricity
23 generated using clean coal. Each utility shall enter into
24 one or more sourcing agreements with the initial clean coal
25 facility, as provided in paragraph (3) of this subsection
26 (d), covering electricity generated by the initial clean

1 coal facility representing at least 5% of each utility's
2 total supply to serve the load of eligible retail customers
3 in 2015 and each year thereafter, as described in paragraph
4 (3) of this subsection (d), subject to the limits specified
5 in paragraph (2) of this subsection (d). It is the goal of
6 the State that by January 1, 2025, 25% of the electricity
7 used in the State shall be generated by cost-effective
8 clean coal facilities. For purposes of this subsection (d),
9 "cost-effective" means that the expenditures pursuant to
10 such sourcing agreements do not cause the limit stated in
11 paragraph (2) of this subsection (d) to be exceeded and do
12 not exceed cost-based benchmarks, which shall be developed
13 to assess all expenditures pursuant to such sourcing
14 agreements covering electricity generated by clean coal
15 facilities, other than the initial clean coal facility, by
16 the procurement administrator, in consultation with the
17 Commission staff, Agency staff, and the procurement
18 monitor and shall be subject to Commission review and
19 approval.

20 A utility party to a sourcing agreement shall
21 immediately retire any emission credits that it receives in
22 connection with the electricity covered by such agreement.

23 Utilities shall maintain adequate records documenting
24 the purchases under the sourcing agreement to comply with
25 this subsection (d) and shall file an accounting with the
26 load forecast that must be filed with the Agency by July 15

1 of each year, in accordance with subsection (d) of Section
2 16-111.5 of the Public Utilities Act.

3 A utility shall be deemed to have complied with the
4 clean coal portfolio standard specified in this subsection
5 (d) if the utility enters into a sourcing agreement as
6 required by this subsection (d).

7 (2) For purposes of this subsection (d), the required
8 execution of sourcing agreements with the initial clean
9 coal facility for a particular year shall be measured as a
10 percentage of the actual amount of electricity
11 (megawatt-hours) supplied by the electric utility to
12 eligible retail customers in the planning year ending
13 immediately prior to the agreement's execution. For
14 purposes of this subsection (d), the amount paid per
15 kilowatthour means the total amount paid for electric
16 service expressed on a per kilowatthour basis. For purposes
17 of this subsection (d), the total amount paid for electric
18 service includes without limitation amounts paid for
19 supply, transmission, distribution, surcharges and add-on
20 taxes.

21 Notwithstanding the requirements of this subsection
22 (d), the total amount paid under sourcing agreements with
23 clean coal facilities pursuant to the procurement plan for
24 any given year shall be reduced by an amount necessary to
25 limit the annual estimated average net increase due to the
26 costs of these resources included in the amounts paid by

1 eligible retail customers in connection with electric
2 service to:

3 (A) in 2010, no more than 0.5% of the amount paid
4 per kilowatthour by those customers during the year
5 ending May 31, 2009;

6 (B) in 2011, the greater of an additional 0.5% of
7 the amount paid per kilowatthour by those customers
8 during the year ending May 31, 2010 or 1% of the amount
9 paid per kilowatthour by those customers during the
10 year ending May 31, 2009;

11 (C) in 2012, the greater of an additional 0.5% of
12 the amount paid per kilowatthour by those customers
13 during the year ending May 31, 2011 or 1.5% of the
14 amount paid per kilowatthour by those customers during
15 the year ending May 31, 2009;

16 (D) in 2013, the greater of an additional 0.5% of
17 the amount paid per kilowatthour by those customers
18 during the year ending May 31, 2012 or 2% of the amount
19 paid per kilowatthour by those customers during the
20 year ending May 31, 2009; and

21 (E) thereafter, the total amount paid under
22 sourcing agreements with clean coal facilities
23 pursuant to the procurement plan for any single year
24 shall be reduced by an amount necessary to limit the
25 estimated average net increase due to the cost of these
26 resources included in the amounts paid by eligible

1 retail customers in connection with electric service
2 to no more than the greater of (i) 2.015% of the amount
3 paid per kilowatthour by those customers during the
4 year ending May 31, 2009 or (ii) the incremental amount
5 per kilowatthour paid for these resources in 2013.
6 These requirements may be altered only as provided by
7 statute.

8 No later than June 30, 2015, the Commission shall
9 review the limitation on the total amount paid under
10 sourcing agreements, if any, with clean coal facilities
11 pursuant to this subsection (d) and report to the General
12 Assembly its findings as to whether that limitation unduly
13 constrains the amount of electricity generated by
14 cost-effective clean coal facilities that is covered by
15 sourcing agreements.

16 (3) Initial clean coal facility. In order to promote
17 development of clean coal facilities in Illinois, each
18 electric utility subject to this Section shall execute a
19 sourcing agreement to source electricity from a proposed
20 clean coal facility in Illinois (the "initial clean coal
21 facility") that will have a nameplate capacity of at least
22 500 MW when commercial operation commences, that has a
23 final Clean Air Act permit on the effective date of this
24 amendatory Act of the 95th General Assembly, and that will
25 meet the definition of clean coal facility in Section 1-10
26 of this Act when commercial operation commences. The

1 sourcing agreements with this initial clean coal facility
2 shall be subject to both approval of the initial clean coal
3 facility by the General Assembly and satisfaction of the
4 requirements of paragraph (4) of this subsection (d) and
5 shall be executed within 90 days after any such approval by
6 the General Assembly. The Agency and the Commission shall
7 have authority to inspect all books and records associated
8 with the initial clean coal facility during the term of
9 such a sourcing agreement. A utility's sourcing agreement
10 for electricity produced by the initial clean coal facility
11 shall include:

12 (A) a formula contractual price (the "contract
13 price") approved pursuant to paragraph (4) of this
14 subsection (d), which shall:

15 (i) be determined using a cost of service
16 methodology employing either a level or deferred
17 capital recovery component, based on a capital
18 structure consisting of 45% equity and 55% debt,
19 and a return on equity as may be approved by the
20 Federal Energy Regulatory Commission, which in any
21 case may not exceed the lower of 11.5% or the rate
22 of return approved by the General Assembly
23 pursuant to paragraph (4) of this subsection (d);
24 and

25 (ii) provide that all miscellaneous net
26 revenue, including but not limited to net revenue

1 from the sale of emission allowances, if any,
2 substitute natural gas, if any, grants or other
3 support provided by the State of Illinois or the
4 United States Government, firm transmission
5 rights, if any, by-products produced by the
6 facility, energy or capacity derived from the
7 facility and not covered by a sourcing agreement
8 pursuant to paragraph (3) of this subsection (d) or
9 item (5) of subsection (d) of Section 16-115 of the
10 Public Utilities Act, whether generated from the
11 synthesis gas derived from coal, from SNG, or from
12 natural gas, shall be credited against the revenue
13 requirement for this initial clean coal facility;

14 (B) power purchase provisions, which shall:

15 (i) provide that the utility party to such
16 sourcing agreement shall pay the contract price
17 for electricity delivered under such sourcing
18 agreement;

19 (ii) require delivery of electricity to the
20 regional transmission organization market of the
21 utility that is party to such sourcing agreement;

22 (iii) require the utility party to such
23 sourcing agreement to buy from the initial clean
24 coal facility in each hour an amount of energy
25 equal to all clean coal energy made available from
26 the initial clean coal facility during such hour

1 times a fraction, the numerator of which is such
2 utility's retail market sales of electricity
3 (expressed in kilowatthours sold) in the State
4 during the prior calendar month and the
5 denominator of which is the total retail market
6 sales of electricity (expressed in kilowatthours
7 sold) in the State by utilities during such prior
8 month and the sales of electricity (expressed in
9 kilowatthours sold) in the State by alternative
10 retail electric suppliers during such prior month
11 that are subject to the requirements of this
12 subsection (d) and paragraph (5) of subsection (d)
13 of Section 16-115 of the Public Utilities Act,
14 provided that the amount purchased by the utility
15 in any year will be limited by paragraph (2) of
16 this subsection (d); and

17 (iv) be considered pre-existing contracts in
18 such utility's procurement plans for eligible
19 retail customers;

20 (C) contract for differences provisions, which
21 shall:

22 (i) require the utility party to such sourcing
23 agreement to contract with the initial clean coal
24 facility in each hour with respect to an amount of
25 energy equal to all clean coal energy made
26 available from the initial clean coal facility

1 during such hour times a fraction, the numerator of
2 which is such utility's retail market sales of
3 electricity (expressed in kilowatthours sold) in
4 the utility's service territory in the State
5 during the prior calendar month and the
6 denominator of which is the total retail market
7 sales of electricity (expressed in kilowatthours
8 sold) in the State by utilities during such prior
9 month and the sales of electricity (expressed in
10 kilowatthours sold) in the State by alternative
11 retail electric suppliers during such prior month
12 that are subject to the requirements of this
13 subsection (d) and paragraph (5) of subsection (d)
14 of Section 16-115 of the Public Utilities Act,
15 provided that the amount paid by the utility in any
16 year will be limited by paragraph (2) of this
17 subsection (d);

18 (ii) provide that the utility's payment
19 obligation in respect of the quantity of
20 electricity determined pursuant to the preceding
21 clause (i) shall be limited to an amount equal to
22 (1) the difference between the contract price
23 determined pursuant to subparagraph (A) of
24 paragraph (3) of this subsection (d) and the
25 day-ahead price for electricity delivered to the
26 regional transmission organization market of the

1 utility that is party to such sourcing agreement
2 (or any successor delivery point at which such
3 utility's supply obligations are financially
4 settled on an hourly basis) (the "reference
5 price") on the day preceding the day on which the
6 electricity is delivered to the initial clean coal
7 facility busbar, multiplied by (2) the quantity of
8 electricity determined pursuant to the preceding
9 clause (i); and

10 (iii) not require the utility to take physical
11 delivery of the electricity produced by the
12 facility;

13 (D) general provisions, which shall:

14 (i) specify a term of no more than 30 years,
15 commencing on the commercial operation date of the
16 facility;

17 (ii) provide that utilities shall maintain
18 adequate records documenting purchases under the
19 sourcing agreements entered into to comply with
20 this subsection (d) and shall file an accounting
21 with the load forecast that must be filed with the
22 Agency by July 15 of each year, in accordance with
23 subsection (d) of Section 16-111.5 of the Public
24 Utilities Act;

25 (iii) provide that all costs associated with
26 the initial clean coal facility will be

1 periodically reported to the Federal Energy
2 Regulatory Commission and to purchasers in
3 accordance with applicable laws governing
4 cost-based wholesale power contracts;

5 (iv) permit the Illinois Power Agency to
6 assume ownership of the initial clean coal
7 facility, without monetary consideration and
8 otherwise on reasonable terms acceptable to the
9 Agency, if the Agency so requests no less than 3
10 years prior to the end of the stated contract term;

11 (v) require the owner of the initial clean coal
12 facility to provide documentation to the
13 Commission each year, starting in the facility's
14 first year of commercial operation, accurately
15 reporting the quantity of carbon emissions from
16 the facility that have been captured and
17 sequestered and report any quantities of carbon
18 released from the site or sites at which carbon
19 emissions were sequestered in prior years, based
20 on continuous monitoring of such sites. If, in any
21 year after the first year of commercial operation,
22 the owner of the facility fails to demonstrate that
23 the initial clean coal facility captured and
24 sequestered at least 50% of the total carbon
25 emissions that the facility would otherwise emit
26 or that sequestration of emissions from prior

1 years has failed, resulting in the release of
2 carbon dioxide into the atmosphere, the owner of
3 the facility must offset excess emissions. Any
4 such carbon offsets must be permanent, additional,
5 verifiable, real, located within the State of
6 Illinois, and legally and practicably enforceable.
7 The cost of such offsets for the facility that are
8 not recoverable shall not exceed \$15 million in any
9 given year. No costs of any such purchases of
10 carbon offsets may be recovered from a utility or
11 its customers. All carbon offsets purchased for
12 this purpose and any carbon emission credits
13 associated with sequestration of carbon from the
14 facility must be permanently retired. The initial
15 clean coal facility shall not forfeit its
16 designation as a clean coal facility if the
17 facility fails to fully comply with the applicable
18 carbon sequestration requirements in any given
19 year, provided the requisite offsets are
20 purchased. However, the Attorney General, on
21 behalf of the People of the State of Illinois, may
22 specifically enforce the facility's sequestration
23 requirement and the other terms of this contract
24 provision. Compliance with the sequestration
25 requirements and offset purchase requirements
26 specified in paragraph (3) of this subsection (d)

1 shall be reviewed annually by an independent
2 expert retained by the owner of the initial clean
3 coal facility, with the advance written approval
4 of the Attorney General. The Commission may, in the
5 course of the review specified in item (vii),
6 reduce the allowable return on equity for the
7 facility if the facility wilfully fails to comply
8 with the carbon capture and sequestration
9 requirements set forth in this item (v);

10 (vi) include limits on, and accordingly
11 provide for modification of, the amount the
12 utility is required to source under the sourcing
13 agreement consistent with paragraph (2) of this
14 subsection (d);

15 (vii) require Commission review: (1) to
16 determine the justness, reasonableness, and
17 prudence of the inputs to the formula referenced in
18 subparagraphs (A)(i) through (A)(iii) of paragraph
19 (3) of this subsection (d), prior to an adjustment
20 in those inputs including, without limitation, the
21 capital structure and return on equity, fuel
22 costs, and other operations and maintenance costs
23 and (2) to approve the costs to be passed through
24 to customers under the sourcing agreement by which
25 the utility satisfies its statutory obligations.
26 Commission review shall occur no less than every 3

1 years, regardless of whether any adjustments have
2 been proposed, and shall be completed within 9
3 months;

4 (viii) limit the utility's obligation to such
5 amount as the utility is allowed to recover through
6 tariffs filed with the Commission, provided that
7 neither the clean coal facility nor the utility
8 waives any right to assert federal pre-emption or
9 any other argument in response to a purported
10 disallowance of recovery costs;

11 (ix) limit the utility's or alternative retail
12 electric supplier's obligation to incur any
13 liability until such time as the facility is in
14 commercial operation and generating power and
15 energy and such power and energy is being delivered
16 to the facility busbar;

17 (x) provide that the owner or owners of the
18 initial clean coal facility, which is the
19 counterparty to such sourcing agreement, shall
20 have the right from time to time to elect whether
21 the obligations of the utility party thereto shall
22 be governed by the power purchase provisions or the
23 contract for differences provisions;

24 (xi) append documentation showing that the
25 formula rate and contract, insofar as they relate
26 to the power purchase provisions, have been

1 approved by the Federal Energy Regulatory
2 Commission pursuant to Section 205 of the Federal
3 Power Act;

4 (xii) provide that any changes to the terms of
5 the contract, insofar as such changes relate to the
6 power purchase provisions, are subject to review
7 under the public interest standard applied by the
8 Federal Energy Regulatory Commission pursuant to
9 Sections 205 and 206 of the Federal Power Act; and

10 (xiii) conform with customary lender
11 requirements in power purchase agreements used as
12 the basis for financing non-utility generators.

13 (4) Effective date of sourcing agreements with the
14 initial clean coal facility.

15 Any proposed sourcing agreement with the initial clean
16 coal facility shall not become effective unless the
17 following reports are prepared and submitted and
18 authorizations and approvals obtained:

19 (i) Facility cost report. The owner of the initial
20 clean coal facility shall submit to the Commission, the
21 Agency, and the General Assembly a front-end
22 engineering and design study, a facility cost report,
23 method of financing (including but not limited to
24 structure and associated costs), and an operating and
25 maintenance cost quote for the facility (collectively
26 "facility cost report"), which shall be prepared in

1 accordance with the requirements of this paragraph (4)
2 of subsection (d) of this Section, and shall provide
3 the Commission and the Agency access to the work
4 papers, relied upon documents, and any other backup
5 documentation related to the facility cost report.

6 (ii) Commission report. Within 6 months following
7 receipt of the facility cost report, the Commission, in
8 consultation with the Agency, shall submit a report to
9 the General Assembly setting forth its analysis of the
10 facility cost report. Such report shall include, but
11 not be limited to, a comparison of the costs associated
12 with electricity generated by the initial clean coal
13 facility to the costs associated with electricity
14 generated by other types of generation facilities, an
15 analysis of the rate impacts on residential and small
16 business customers over the life of the sourcing
17 agreements, and an analysis of the likelihood that the
18 initial clean coal facility will commence commercial
19 operation by and be delivering power to the facility's
20 busbar by 2016. To assist in the preparation of its
21 report, the Commission, in consultation with the
22 Agency, may hire one or more experts or consultants,
23 the costs of which shall be paid for by the owner of
24 the initial clean coal facility. The Commission and
25 Agency may begin the process of selecting such experts
26 or consultants prior to receipt of the facility cost

1 report.

2 (iii) General Assembly approval. The proposed
3 sourcing agreements shall not take effect unless,
4 based on the facility cost report and the Commission's
5 report, the General Assembly enacts authorizing
6 legislation approving (A) the projected price, stated
7 in cents per kilowatthour, to be charged for
8 electricity generated by the initial clean coal
9 facility, (B) the projected impact on residential and
10 small business customers' bills over the life of the
11 sourcing agreements, and (C) the maximum allowable
12 return on equity for the project; and

13 (iv) Commission review. If the General Assembly
14 enacts authorizing legislation pursuant to
15 subparagraph (iii) approving a sourcing agreement, the
16 Commission shall, within 90 days of such enactment,
17 complete a review of such sourcing agreement. During
18 such time period, the Commission shall implement any
19 directive of the General Assembly, resolve any
20 disputes between the parties to the sourcing agreement
21 concerning the terms of such agreement, approve the
22 form of such agreement, and issue an order finding that
23 the sourcing agreement is prudent and reasonable.

24 The facility cost report shall be prepared as follows:

25 (A) The facility cost report shall be prepared by
26 duly licensed engineering and construction firms

1 detailing the estimated capital costs payable to one or
2 more contractors or suppliers for the engineering,
3 procurement and construction of the components
4 comprising the initial clean coal facility and the
5 estimated costs of operation and maintenance of the
6 facility. The facility cost report shall include:

7 (i) an estimate of the capital cost of the core
8 plant based on one or more front end engineering
9 and design studies for the gasification island and
10 related facilities. The core plant shall include
11 all civil, structural, mechanical, electrical,
12 control, and safety systems.

13 (ii) an estimate of the capital cost of the
14 balance of the plant, including any capital costs
15 associated with sequestration of carbon dioxide
16 emissions and all interconnects and interfaces
17 required to operate the facility, such as
18 transmission of electricity, construction or
19 backfeed power supply, pipelines to transport
20 substitute natural gas or carbon dioxide, potable
21 water supply, natural gas supply, water supply,
22 water discharge, landfill, access roads, and coal
23 delivery.

24 The quoted construction costs shall be expressed
25 in nominal dollars as of the date that the quote is
26 prepared and shall include capitalized financing costs

1 during construction, taxes, insurance, and other
2 owner's costs, and an assumed escalation in materials
3 and labor beyond the date as of which the construction
4 cost quote is expressed.

5 (B) The front end engineering and design study for
6 the gasification island and the cost study for the
7 balance of plant shall include sufficient design work
8 to permit quantification of major categories of
9 materials, commodities and labor hours, and receipt of
10 quotes from vendors of major equipment required to
11 construct and operate the clean coal facility.

12 (C) The facility cost report shall also include an
13 operating and maintenance cost quote that will provide
14 the estimated cost of delivered fuel, personnel,
15 maintenance contracts, chemicals, catalysts,
16 consumables, spares, and other fixed and variable
17 operations and maintenance costs. The delivered fuel
18 cost estimate will be provided by a recognized third
19 party expert or experts in the fuel and transportation
20 industries. The balance of the operating and
21 maintenance cost quote, excluding delivered fuel
22 costs, will be developed based on the inputs provided
23 by duly licensed engineering and construction firms
24 performing the construction cost quote, potential
25 vendors under long-term service agreements and plant
26 operating agreements, or recognized third party plant

1 operator or operators.

2 The operating and maintenance cost quote
3 (including the cost of the front end engineering and
4 design study) shall be expressed in nominal dollars as
5 of the date that the quote is prepared and shall
6 include taxes, insurance, and other owner's costs, and
7 an assumed escalation in materials and labor beyond the
8 date as of which the operating and maintenance cost
9 quote is expressed.

10 (D) The facility cost report shall also include an
11 analysis of the initial clean coal facility's ability
12 to deliver power and energy into the applicable
13 regional transmission organization markets and an
14 analysis of the expected capacity factor for the
15 initial clean coal facility.

16 (E) Amounts paid to third parties unrelated to the
17 owner or owners of the initial clean coal facility to
18 prepare the core plant construction cost quote,
19 including the front end engineering and design study,
20 and the operating and maintenance cost quote will be
21 reimbursed through Coal Development Bonds.

22 (5) Re-powering and retrofitting coal-fired power
23 plants previously owned by Illinois utilities to qualify as
24 clean coal facilities. During the 2009 procurement
25 planning process and thereafter, the Agency and the
26 Commission shall consider sourcing agreements covering

1 electricity generated by power plants that were previously
2 owned by Illinois utilities and that have been or will be
3 converted into clean coal facilities, as defined by Section
4 1-10 of this Act. Pursuant to such procurement planning
5 process, the owners of such facilities may propose to the
6 Agency sourcing agreements with utilities and alternative
7 retail electric suppliers required to comply with
8 subsection (d) of this Section and item (5) of subsection
9 (d) of Section 16-115 of the Public Utilities Act, covering
10 electricity generated by such facilities. In the case of
11 sourcing agreements that are power purchase agreements,
12 the contract price for electricity sales shall be
13 established on a cost of service basis. In the case of
14 sourcing agreements that are contracts for differences,
15 the contract price from which the reference price is
16 subtracted shall be established on a cost of service basis.
17 The Agency and the Commission may approve any such utility
18 sourcing agreements that do not exceed cost-based
19 benchmarks developed by the procurement administrator, in
20 consultation with the Commission staff, Agency staff and
21 the procurement monitor, subject to Commission review and
22 approval. The Commission shall have authority to inspect
23 all books and records associated with these clean coal
24 facilities during the term of any such contract.

25 (6) Costs incurred under this subsection (d) or
26 pursuant to a contract entered into under this subsection

1 (d) shall be deemed prudently incurred and reasonable in
2 amount and the electric utility shall be entitled to full
3 cost recovery pursuant to the tariffs filed with the
4 Commission.

5 (d-5) Zero emission standard.

6 (1) Beginning with the delivery year commencing on June
7 1, 2017, the Agency shall, for electric utilities that
8 serve at least 100,000 retail customers in this State,
9 procure contracts with zero emission facilities that are
10 reasonably capable of generating cost-effective zero
11 emission credits in an amount approximately equal to 16% of
12 the actual amount of electricity delivered by each electric
13 utility to retail customers in the State during calendar
14 year 2014. For an electric utility serving fewer than
15 100,000 retail customers in this State that requested,
16 under Section 16-111.5 of the Public Utilities Act, that
17 the Agency procure power and energy for all or a portion of
18 the utility's Illinois load for the delivery year
19 commencing June 1, 2016, the Agency shall procure contracts
20 with zero emission facilities that are reasonably capable
21 of generating cost-effective zero emission credits in an
22 amount approximately equal to 16% of the portion of power
23 and energy to be procured by the Agency for the utility.
24 The duration of the contracts procured under this
25 subsection (d-5) shall be for a term of 10 years ending May
26 31, 2027. The quantity of zero emission credits to be

1 procured under the contracts shall be all of the zero
2 emission credits generated by the zero emission facility in
3 each delivery year; however, if the zero emission facility
4 is owned by more than one entity, then the quantity of zero
5 emission credits to be procured under the contracts shall
6 be the amount of zero emission credits that are generated
7 from the portion of the zero emission facility that is
8 owned by the winning supplier.

9 The 16% value identified in this paragraph (1) is the
10 average of the percentage targets in subparagraph (B) of
11 paragraph (1) of subsection (c) of Section 1-75 of this Act
12 for the 5 delivery years beginning June 1, 2017.

13 The procurement process shall be subject to the
14 following provisions:

15 (A) Those zero emission facilities that intend to
16 participate in the procurement shall submit to the
17 Agency the following eligibility information for each
18 zero emission facility on or before the date
19 established by the Agency:

20 (i) the in-service date and remaining useful
21 life of the zero emission facility;

22 (ii) the amount of power generated annually
23 for each of the years 2005 through 2015, and the
24 projected zero emission credits to be generated
25 over the remaining useful life of the zero emission
26 facility, which shall be used to determine the

1 capability of each facility;

2 (iii) the annual zero emission facility cost
3 projections, expressed on a per megawatthour
4 basis, over the next 6 delivery years, which shall
5 include the following: operation and maintenance
6 expenses; fully allocated overhead costs, which
7 shall be allocated using the methodology developed
8 by the Institute for Nuclear Power Operations;
9 fuel expenditures; non-fuel capital expenditures;
10 spent fuel expenditures; a return on working
11 capital; the cost of operational and market risks
12 that could be avoided by ceasing operation; and any
13 other costs necessary for continued operations,
14 provided that "necessary" means, for purposes of
15 this item (iii), that the costs could reasonably be
16 avoided only by ceasing operations of the zero
17 emission facility; and

18 (iv) a commitment to continue operating, for
19 the duration of the contract or contracts executed
20 under the procurement held under this subsection
21 (d-5), the zero emission facility that produces
22 the zero emission credits to be procured in the
23 procurement.

24 The information described in item (iii) of this
25 subparagraph (A) may be submitted on a confidential basis
26 and shall be treated and maintained by the Agency, the

1 procurement administrator, and the Commission as
2 confidential and proprietary and exempt from disclosure
3 under subparagraphs (a) and (g) of paragraph (1) of Section
4 7 of the Freedom of Information Act. The Office of Attorney
5 General shall have access to, and maintain the
6 confidentiality of, such information pursuant to Section
7 6.5 of the Attorney General Act.

8 (B) The price for each zero emission credit
9 procured under this subsection (d-5) for each delivery
10 year shall be in an amount that equals the Social Cost
11 of Carbon, expressed on a price per megawatthour basis.
12 However, to ensure that the procurement remains
13 affordable to retail customers in this State if
14 electricity prices increase, the price in an
15 applicable delivery year shall be reduced below the
16 Social Cost of Carbon by the amount ("Price
17 Adjustment") by which the market price index for the
18 applicable delivery year exceeds the baseline market
19 price index for the consecutive 12-month period ending
20 May 31, 2016. If the Price Adjustment is greater than
21 or equal to the Social Cost of Carbon in an applicable
22 delivery year, then no payments shall be due in that
23 delivery year. The components of this calculation are
24 defined as follows:

25 (i) Social Cost of Carbon: The Social Cost of
26 Carbon is \$16.50 per megawatthour, which is based

1 on the U.S. Interagency Working Group on Social
2 Cost of Carbon's price in the August 2016 Technical
3 Update using a 3% discount rate, adjusted for
4 inflation for each year of the program. Beginning
5 with the delivery year commencing June 1, 2023, the
6 price per megawatthour shall increase by \$1 per
7 megawatthour, and continue to increase by an
8 additional \$1 per megawatthour each delivery year
9 thereafter.

10 (ii) Baseline market price index: The baseline
11 market price index for the consecutive 12-month
12 period ending May 31, 2016 is \$31.40 per
13 megawatthour, which is based on the sum of (aa) the
14 average day-ahead energy price across all hours of
15 such 12-month period at the PJM Interconnection
16 LLC Northern Illinois Hub, (bb) 50% multiplied by
17 the Base Residual Auction, or its successor,
18 capacity price for the rest of the RTO zone group
19 determined by PJM Interconnection LLC, divided by
20 24 hours per day, and (cc) 50% multiplied by the
21 Planning Resource Auction, or its successor,
22 capacity price for Zone 4 determined by the
23 Midcontinent Independent System Operator, Inc.,
24 divided by 24 hours per day.

25 (iii) Market price index: The market price
26 index for a delivery year shall be the sum of

1 projected energy prices and projected capacity
2 prices determined as follows:

3 (aa) Projected energy prices: the
4 projected energy prices for the applicable
5 delivery year shall be calculated once for the
6 year using the forward market price for the PJM
7 Interconnection, LLC Northern Illinois Hub.
8 The forward market price shall be calculated as
9 follows: the energy forward prices for each
10 month of the applicable delivery year averaged
11 for each trade date during the calendar year
12 immediately preceding that delivery year to
13 produce a single energy forward price for the
14 delivery year. The forward market price
15 calculation shall use data published by the
16 Intercontinental Exchange, or its successor.

17 (bb) Projected capacity prices:

18 (I) For the delivery years commencing
19 June 1, 2017, June 1, 2018, and June 1,
20 2019, the projected capacity price shall
21 be equal to the sum of (1) 50% multiplied
22 by the Base Residual Auction, or its
23 successor, price for the rest of the RTO
24 zone group as determined by PJM
25 Interconnection LLC, divided by 24 hours
26 per day and, (2) 50% multiplied by the

1 resource auction price determined in the
2 resource auction administered by the
3 Midcontinent Independent System Operator,
4 Inc., in which the largest percentage of
5 load cleared for Local Resource Zone 4,
6 divided by 24 hours per day, and where such
7 price is determined by the Midcontinent
8 Independent System Operator, Inc.

9 (II) For the delivery year commencing
10 June 1, 2020, and each year thereafter, the
11 projected capacity price shall be equal to
12 the sum of (1) 50% multiplied by the Base
13 Residual Auction, or its successor, price
14 for the ComEd zone as determined by PJM
15 Interconnection LLC, divided by 24 hours
16 per day, and (2) 50% multiplied by the
17 resource auction price determined in the
18 resource auction administered by the
19 Midcontinent Independent System Operator,
20 Inc., in which the largest percentage of
21 load cleared for Local Resource Zone 4,
22 divided by 24 hours per day, and where such
23 price is determined by the Midcontinent
24 Independent System Operator, Inc.

25 For purposes of this subsection (d-5):

26 "Rest of the RTO" and "ComEd Zone" shall have

1 the meaning ascribed to them by PJM
2 Interconnection, LLC.

3 "RTO" means regional transmission
4 organization.

5 (C) No later than 45 days after the effective date
6 of this amendatory Act of the 99th General Assembly,
7 the Agency shall publish its proposed zero emission
8 standard procurement plan. The plan shall be
9 consistent with the provisions of this paragraph (1)
10 and shall provide that winning bids shall be selected
11 based on public interest criteria that include, but are
12 not limited to, minimizing carbon dioxide emissions
13 that result from electricity consumed in Illinois and
14 minimizing sulfur dioxide, nitrogen oxide, and
15 particulate matter emissions that adversely affect the
16 citizens of this State. In particular, the selection of
17 winning bids shall take into account the incremental
18 environmental benefits resulting from the procurement,
19 such as any existing environmental benefits that are
20 preserved by the procurements held under this
21 amendatory Act of the 99th General Assembly and would
22 cease to exist if the procurements were not held,
23 including the preservation of zero emission
24 facilities. The plan shall also describe in detail how
25 each public interest factor shall be considered and
26 weighted in the bid selection process to ensure that

1 the public interest criteria are applied to the
2 procurement and given full effect.

3 For purposes of developing the plan, the Agency
4 shall consider any reports issued by a State agency,
5 board, or commission under House Resolution 1146 of the
6 98th General Assembly and paragraph (4) of subsection
7 (d) of Section 1-75 of this Act, as well as publicly
8 available analyses and studies performed by or for
9 regional transmission organizations that serve the
10 State and their independent market monitors.

11 Upon publishing of the zero emission standard
12 procurement plan, copies of the plan shall be posted
13 and made publicly available on the Agency's website.
14 All interested parties shall have 10 days following the
15 date of posting to provide comment to the Agency on the
16 plan. All comments shall be posted to the Agency's
17 website. Following the end of the comment period, but
18 no more than 60 days later than the effective date of
19 this amendatory Act of the 99th General Assembly, the
20 Agency shall revise the plan as necessary based on the
21 comments received and file its zero emission standard
22 procurement plan with the Commission.

23 If the Commission determines that the plan will
24 result in the procurement of cost-effective zero
25 emission credits, then the Commission shall, after
26 notice and hearing, but no later than 45 days after the

1 Agency filed the plan, approve the plan or approve with
2 modification. For purposes of this subsection (d-5),
3 "cost effective" means the projected costs of
4 procuring zero emission credits from zero emission
5 facilities do not cause the limit stated in paragraph
6 (2) of this subsection to be exceeded.

7 (C-5) As part of the Commission's review and
8 acceptance or rejection of the procurement results,
9 the Commission shall, in its public notice of
10 successful bidders:

11 (i) identify how the winning bids satisfy the
12 public interest criteria described in subparagraph
13 (C) of this paragraph (1) of minimizing carbon
14 dioxide emissions that result from electricity
15 consumed in Illinois and minimizing sulfur
16 dioxide, nitrogen oxide, and particulate matter
17 emissions that adversely affect the citizens of
18 this State;

19 (ii) specifically address how the selection of
20 winning bids takes into account the incremental
21 environmental benefits resulting from the
22 procurement, including any existing environmental
23 benefits that are preserved by the procurements
24 held under this amendatory Act of the 99th General
25 Assembly and would have ceased to exist if the
26 procurements had not been held, such as the

1 preservation of zero emission facilities;

2 (iii) quantify the environmental benefit of
3 preserving the resources identified in item (ii)
4 of this subparagraph (C-5), including the
5 following:

6 (aa) the value of avoided greenhouse gas
7 emissions measured as the product of the zero
8 emission facilities' output over the contract
9 term multiplied by the U.S. Environmental
10 Protection Agency eGrid subregion carbon
11 dioxide emission rate and the U.S. Interagency
12 Working Group on Social Cost of Carbon's price
13 in the August 2016 Technical Update using a 3%
14 discount rate, adjusted for inflation for each
15 delivery year; and

16 (bb) the costs of replacement with other
17 zero carbon dioxide resources, including wind
18 and photovoltaic, based upon the simple
19 average of the following:

20 (I) the price, or if there is more than
21 one price, the average of the prices, paid
22 for renewable energy credits from new
23 utility-scale wind projects in the
24 procurement events specified in item (i)
25 of subparagraph (G) of paragraph (1) of
26 subsection (c) of Section 1-75 of this Act;

1 and

2 (II) the price, or if there is more
3 than one price, the average of the prices,
4 paid for renewable energy credits from new
5 utility-scale solar projects and
6 brownfield site photovoltaic projects in
7 the procurement events specified in item
8 (ii) of subparagraph (G) of paragraph (1)
9 of subsection (c) of Section 1-75 of this
10 Act and, after January 1, 2015, renewable
11 energy credits from photovoltaic
12 distributed generation projects in
13 procurement events held under subsection
14 (c) of Section 1-75 of this Act.

15 Each utility shall enter into binding contractual arrangements
16 with the winning suppliers.

17 The procurement described in this subsection
18 (d-5), including, but not limited to, the execution of
19 all contracts procured, shall be completed no later
20 than May 10, 2017. Based on the effective date of this
21 amendatory Act of the 99th General Assembly, the Agency
22 and Commission may, as appropriate, modify the various
23 dates and timelines under this subparagraph and
24 subparagraphs (C) and (D) of this paragraph (1). The
25 procurement and plan approval processes required by
26 this subsection (d-5) shall be conducted in

1 conjunction with the procurement and plan approval
2 processes required by subsection (c) of this Section
3 and Section 16-111.5 of the Public Utilities Act, to
4 the extent practicable. Notwithstanding whether a
5 procurement event is conducted under Section 16-111.5
6 of the Public Utilities Act, the Agency shall
7 immediately initiate a procurement process on the
8 effective date of this amendatory Act of the 99th
9 General Assembly.

10 (D) Following the procurement event described in
11 this paragraph (1) and consistent with subparagraph
12 (B) of this paragraph (1), the Agency shall calculate
13 the payments to be made under each contract for the
14 next delivery year based on the market price index for
15 that delivery year. The Agency shall publish the
16 payment calculations no later than May 25, 2017 and
17 every May 25 thereafter.

18 (E) Notwithstanding the requirements of this
19 subsection (d-5), the contracts executed under this
20 subsection (d-5) shall provide that the zero emission
21 facility may, as applicable, suspend or terminate
22 performance under the contracts in the following
23 instances:

24 (i) A zero emission facility shall be excused
25 from its performance under the contract for any
26 cause beyond the control of the resource,

1 including, but not restricted to, acts of God,
2 flood, drought, earthquake, storm, fire,
3 lightning, epidemic, war, riot, civil disturbance
4 or disobedience, labor dispute, labor or material
5 shortage, sabotage, acts of public enemy,
6 explosions, orders, regulations or restrictions
7 imposed by governmental, military, or lawfully
8 established civilian authorities, which, in any of
9 the foregoing cases, by exercise of commercially
10 reasonable efforts the zero emission facility
11 could not reasonably have been expected to avoid,
12 and which, by the exercise of commercially
13 reasonable efforts, it has been unable to
14 overcome. In such event, the zero emission
15 facility shall be excused from performance for the
16 duration of the event, including, but not limited
17 to, delivery of zero emission credits, and no
18 payment shall be due to the zero emission facility
19 during the duration of the event.

20 (ii) A zero emission facility shall be
21 permitted to terminate the contract if legislation
22 is enacted into law by the General Assembly that
23 imposes or authorizes a new tax, special
24 assessment, or fee on the generation of
25 electricity, the ownership or leasehold of a
26 generating unit, or the privilege or occupation of

1 such generation, ownership, or leasehold of
2 generation units by a zero emission facility.
3 However, the provisions of this item (ii) do not
4 apply to any generally applicable tax, special
5 assessment or fee, or requirements imposed by
6 federal law.

7 (iii) A zero emission facility shall be
8 permitted to terminate the contract in the event
9 that the resource requires capital expenditures in
10 excess of \$40,000,000 that were neither known nor
11 reasonably foreseeable at the time it executed the
12 contract and that a prudent owner or operator of
13 such resource would not undertake.

14 (iv) A zero emission facility shall be
15 permitted to terminate the contract in the event
16 the Nuclear Regulatory Commission terminates the
17 resource's license.

18 (F) If the zero emission facility elects to
19 terminate a contract under this subparagraph (E, of
20 this paragraph (1), then the Commission shall reopen
21 the docket in which the Commission approved the zero
22 emission standard procurement plan under subparagraph
23 (C) of this paragraph (1) and, after notice and
24 hearing, enter an order acknowledging the contract
25 termination election if such termination is consistent
26 with the provisions of this subsection (d-5).

1 (2) For purposes of this subsection (d-5), the amount
2 paid per kilowatthour means the total amount paid for
3 electric service expressed on a per kilowatthour basis. For
4 purposes of this subsection (d-5), the total amount paid
5 for electric service includes, without limitation, amounts
6 paid for supply, transmission, distribution, surcharges,
7 and add-on taxes.

8 Notwithstanding the requirements of this subsection
9 (d-5), the contracts executed under this subsection (d-5)
10 shall provide that the total of zero emission credits
11 procured under a procurement plan shall be subject to the
12 limitations of this paragraph (2). For each delivery year,
13 the contractual volume receiving payments in such year
14 shall be reduced for all retail customers based on the
15 amount necessary to limit the net increase that delivery
16 year to the costs of those credits included in the amounts
17 paid by eligible retail customers in connection with
18 electric service to no more than 1.65% of the amount paid
19 per kilowatthour by eligible retail customers during the
20 year ending May 31, 2009. The result of this computation
21 shall apply to and reduce the procurement for all retail
22 customers, and all those customers shall pay the same
23 single, uniform cents per kilowatthour charge under
24 subsection (k) of Section 16-108 of the Public Utilities
25 Act. To arrive at a maximum dollar amount of zero emission
26 credits to be paid for the particular delivery year, the

1 resulting per kilowatthour amount shall be applied to the
2 actual amount of kilowatthours of electricity delivered by
3 the electric utility in the delivery year immediately prior
4 to the procurement, to all retail customers in its service
5 territory. Unpaid contractual volume for any delivery year
6 shall be paid in any subsequent delivery year in which such
7 payments can be made without exceeding the amount specified
8 in this paragraph (2). The calculations required by this
9 paragraph (2) shall be made only once for each procurement
10 plan year. Once the determination as to the amount of zero
11 emission credits to be paid is made based on the
12 calculations set forth in this paragraph (2), no subsequent
13 rate impact determinations shall be made and no adjustments
14 to those contract amounts shall be allowed. All costs
15 incurred under those contracts and in implementing this
16 subsection (d-5) shall be recovered by the electric utility
17 as provided in this Section.

18 No later than June 30, 2019, the Commission shall
19 review the limitation on the amount of zero emission
20 credits procured under this subsection (d-5) and report to
21 the General Assembly its findings as to whether that
22 limitation unduly constrains the procurement of
23 cost-effective zero emission credits.

24 (3) Six years after the execution of a contract under
25 this subsection (d-5), the Agency shall determine whether
26 the actual zero emission credit payments received by the

1 supplier over the 6-year period exceed the Average ZEC
2 Payment. In addition, at the end of the term of a contract
3 executed under this subsection (d-5), or at the time, if
4 any, a zero emission facility's contract is terminated
5 under subparagraph (E) of paragraph (1) of this subsection
6 (d-5), then the Agency shall determine whether the actual
7 zero emission credit payments received by the supplier over
8 the term of the contract exceed the Average ZEC Payment,
9 after taking into account any amounts previously credited
10 back to the utility under this paragraph (3). If the Agency
11 determines that the actual zero emission credit payments
12 received by the supplier over the relevant period exceed
13 the Average ZEC Payment, then the supplier shall credit the
14 difference back to the utility. The amount of the credit
15 shall be remitted to the applicable electric utility no
16 later than 120 days after the Agency's determination, which
17 the utility shall reflect as a credit on its retail
18 customer bills as soon as practicable; however, the credit
19 remitted to the utility shall not exceed the total amount
20 of payments received by the facility under its contract.

21 For purposes of this Section, the Average ZEC Payment
22 shall be calculated by multiplying the quantity of zero
23 emission credits delivered under the contract times the
24 average contract price. The average contract price shall be
25 determined by subtracting the amount calculated under
26 subparagraph (B) of this paragraph (3) from the amount

1 calculated under subparagraph (A) of this paragraph (3), as
2 follows:

3 (A) The average of the Social Cost of Carbon, as
4 defined in subparagraph (B) of paragraph (1) of this
5 subsection (d-5), during the term of the contract.

6 (B) The average of the market price indices, as
7 defined in subparagraph (B) of paragraph (1) of this
8 subsection (d-5), during the term of the contract,
9 minus the baseline market price index, as defined in
10 subparagraph (B) of paragraph (1) of this subsection
11 (d-5).

12 If the subtraction yields a negative number, then the
13 Average ZEC Payment shall be zero.

14 (4) Cost-effective zero emission credits procured from
15 zero emission facilities shall satisfy the applicable
16 definitions set forth in Section 1-10 of this Act.

17 (5) The electric utility shall retire all zero emission
18 credits used to comply with the requirements of this
19 subsection (d-5).

20 (6) Electric utilities shall be entitled to recover all
21 of the costs associated with the procurement of zero
22 emission credits through an automatic adjustment clause
23 tariff in accordance with subsection (k) and (m) of Section
24 16-108 of the Public Utilities Act, and the contracts
25 executed under this subsection (d-5) shall provide that the
26 utilities' payment obligations under such contracts shall

1 be reduced if an adjustment is required under subsection
2 (m) of Section 16-108 of the Public Utilities Act.

3 (7) This subsection (d-5) shall become inoperative on
4 January 1, 2028.

5 (e) The draft procurement plans are subject to public
6 comment, as required by Section 16-111.5 of the Public
7 Utilities Act.

8 (f) The Agency shall submit the final procurement plan to
9 the Commission. The Agency shall revise a procurement plan if
10 the Commission determines that it does not meet the standards
11 set forth in Section 16-111.5 of the Public Utilities Act.

12 (g) The Agency shall assess fees to each affected utility
13 to recover the costs incurred in preparation of the annual
14 procurement plan for the utility.

15 (h) The Agency shall assess fees to each bidder to recover
16 the costs incurred in connection with a competitive procurement
17 process.

18 (i) A renewable energy credit, carbon emission credit, or
19 zero emission credit can only be used once to comply with a
20 single portfolio or other standard as set forth in subsection
21 (c), subsection (d), or subsection (d-5) of this Section,
22 respectively. A renewable energy credit, carbon emission
23 credit, or zero emission credit cannot be used to satisfy the
24 requirements of more than one standard. If more than one type
25 of credit is issued for the same megawatt hour of energy, only
26 one credit can be used to satisfy the requirements of a single

1 standard. After such use, the credit must be retired together
2 with any other credits issued for the same megawatt hour of
3 energy.

4 (Source: P.A. 98-463, eff. 8-16-13; 99-536, eff. 7-8-16.)

5 Section 10. The Illinois Procurement Code is amended by
6 changing Section 20-10 as follows:

7 (30 ILCS 500/20-10)

8 (Text of Section from P.A. 96-159, 96-588, 97-96, 97-895,
9 and 98-1076)

10 Sec. 20-10. Competitive sealed bidding; reverse auction.

11 (a) Conditions for use. All contracts shall be awarded by
12 competitive sealed bidding except as otherwise provided in
13 Section 20-5.

14 (b) Invitation for bids. An invitation for bids shall be
15 issued and shall include a purchase description and the
16 material contractual terms and conditions applicable to the
17 procurement.

18 (c) Public notice. Public notice of the invitation for bids
19 shall be published in the Illinois Procurement Bulletin at
20 least 14 calendar days before the date set in the invitation
21 for the opening of bids.

22 (d) Bid opening. Bids shall be opened publicly in the
23 presence of one or more witnesses at the time and place
24 designated in the invitation for bids. The name of each bidder,

1 the amount of each bid, and other relevant information as may
2 be specified by rule shall be recorded. After the award of the
3 contract, the winning bid and the record of each unsuccessful
4 bid shall be open to public inspection.

5 (e) Bid acceptance and bid evaluation. Bids shall be
6 unconditionally accepted without alteration or correction,
7 except as authorized in this Code. Bids shall be evaluated
8 based on the requirements set forth in the invitation for bids,
9 which may include criteria to determine acceptability such as
10 inspection, testing, quality, workmanship, delivery, and
11 suitability for a particular purpose. Those criteria that will
12 affect the bid price and be considered in evaluation for award,
13 such as discounts, transportation costs, and total or life
14 cycle costs, shall be objectively measurable. The invitation
15 for bids shall set forth the evaluation criteria to be used.

16 (f) Correction or withdrawal of bids. Correction or
17 withdrawal of inadvertently erroneous bids before or after
18 award, or cancellation of awards of contracts based on bid
19 mistakes, shall be permitted in accordance with rules. After
20 bid opening, no changes in bid prices or other provisions of
21 bids prejudicial to the interest of the State or fair
22 competition shall be permitted. All decisions to permit the
23 correction or withdrawal of bids based on bid mistakes shall be
24 supported by written determination made by a State purchasing
25 officer.

26 (g) Award. The contract shall be awarded with reasonable

1 promptness by written notice to the lowest responsible and
2 responsive bidder whose bid meets the requirements and criteria
3 set forth in the invitation for bids, except when a State
4 purchasing officer determines it is not in the best interest of
5 the State and by written explanation determines another bidder
6 shall receive the award. The explanation shall appear in the
7 appropriate volume of the Illinois Procurement Bulletin. The
8 written explanation must include:

- 9 (1) a description of the agency's needs;
10 (2) a determination that the anticipated cost will be
11 fair and reasonable;
12 (3) a listing of all responsible and responsive
13 bidders; and
14 (4) the name of the bidder selected, the total contract
15 price, and the reasons for selecting that bidder.

16 Each chief procurement officer may adopt guidelines to
17 implement the requirements of this subsection (g).

18 The written explanation shall be filed with the Legislative
19 Audit Commission and the Procurement Policy Board, and be made
20 available for inspection by the public, within 30 calendar days
21 after the agency's decision to award the contract.

22 (h) Multi-step sealed bidding. When it is considered
23 impracticable to initially prepare a purchase description to
24 support an award based on price, an invitation for bids may be
25 issued requesting the submission of unpriced offers to be
26 followed by an invitation for bids limited to those bidders

1 whose offers have been qualified under the criteria set forth
2 in the first solicitation.

3 (i) Alternative procedures. Notwithstanding any other
4 provision of this Act to the contrary, the Director of the
5 Illinois Power Agency may create alternative bidding
6 procedures to be used in procuring professional services under
7 Section 1-56, subsections ~~subsection~~ (a) and (c) of Section
8 1-75 and subsection (d) of Section 1-78 of the Illinois Power
9 Agency Act and Section 16-111.5(c) of the Public Utilities Act
10 and to procure renewable energy resources under Section 1-56 of
11 the Illinois Power Agency Act. These alternative procedures
12 shall be set forth together with the other criteria contained
13 in the invitation for bids, and shall appear in the appropriate
14 volume of the Illinois Procurement Bulletin.

15 (j) Reverse auction. Notwithstanding any other provision
16 of this Section and in accordance with rules adopted by the
17 chief procurement officer, that chief procurement officer may
18 procure supplies or services through a competitive electronic
19 auction bidding process after the chief procurement officer
20 determines that the use of such a process will be in the best
21 interest of the State. The chief procurement officer shall
22 publish that determination in his or her next volume of the
23 Illinois Procurement Bulletin.

24 An invitation for bids shall be issued and shall include
25 (i) a procurement description, (ii) all contractual terms,
26 whenever practical, and (iii) conditions applicable to the

1 procurement, including a notice that bids will be received in
2 an electronic auction manner.

3 Public notice of the invitation for bids shall be given in
4 the same manner as provided in subsection (c).

5 Bids shall be accepted electronically at the time and in
6 the manner designated in the invitation for bids. During the
7 auction, a bidder's price shall be disclosed to other bidders.
8 Bidders shall have the opportunity to reduce their bid prices
9 during the auction. At the conclusion of the auction, the
10 record of the bid prices received and the name of each bidder
11 shall be open to public inspection.

12 After the auction period has terminated, withdrawal of bids
13 shall be permitted as provided in subsection (f).

14 The contract shall be awarded within 60 calendar days after
15 the auction by written notice to the lowest responsible bidder,
16 or all bids shall be rejected except as otherwise provided in
17 this Code. Extensions of the date for the award may be made by
18 mutual written consent of the State purchasing officer and the
19 lowest responsible bidder.

20 This subsection does not apply to (i) procurements of
21 professional and artistic services, (ii) telecommunications
22 services, communication services, and information services,
23 and (iii) contracts for construction projects, including
24 design professional services.

25 (Source: P.A. 97-96, eff. 7-13-11; 97-895, eff. 8-3-12;
26 98-1076, eff. 1-1-15.)

1 (Text of Section from P.A. 96-159, 96-795, 97-96, 97-895,
2 and 98-1076)

3 Sec. 20-10. Competitive sealed bidding; reverse auction.

4 (a) Conditions for use. All contracts shall be awarded by
5 competitive sealed bidding except as otherwise provided in
6 Section 20-5.

7 (b) Invitation for bids. An invitation for bids shall be
8 issued and shall include a purchase description and the
9 material contractual terms and conditions applicable to the
10 procurement.

11 (c) Public notice. Public notice of the invitation for bids
12 shall be published in the Illinois Procurement Bulletin at
13 least 14 calendar days before the date set in the invitation
14 for the opening of bids.

15 (d) Bid opening. Bids shall be opened publicly in the
16 presence of one or more witnesses at the time and place
17 designated in the invitation for bids. The name of each bidder,
18 the amount of each bid, and other relevant information as may
19 be specified by rule shall be recorded. After the award of the
20 contract, the winning bid and the record of each unsuccessful
21 bid shall be open to public inspection.

22 (e) Bid acceptance and bid evaluation. Bids shall be
23 unconditionally accepted without alteration or correction,
24 except as authorized in this Code. Bids shall be evaluated
25 based on the requirements set forth in the invitation for bids,

1 which may include criteria to determine acceptability such as
2 inspection, testing, quality, workmanship, delivery, and
3 suitability for a particular purpose. Those criteria that will
4 affect the bid price and be considered in evaluation for award,
5 such as discounts, transportation costs, and total or life
6 cycle costs, shall be objectively measurable. The invitation
7 for bids shall set forth the evaluation criteria to be used.

8 (f) Correction or withdrawal of bids. Correction or
9 withdrawal of inadvertently erroneous bids before or after
10 award, or cancellation of awards of contracts based on bid
11 mistakes, shall be permitted in accordance with rules. After
12 bid opening, no changes in bid prices or other provisions of
13 bids prejudicial to the interest of the State or fair
14 competition shall be permitted. All decisions to permit the
15 correction or withdrawal of bids based on bid mistakes shall be
16 supported by written determination made by a State purchasing
17 officer.

18 (g) Award. The contract shall be awarded with reasonable
19 promptness by written notice to the lowest responsible and
20 responsive bidder whose bid meets the requirements and criteria
21 set forth in the invitation for bids, except when a State
22 purchasing officer determines it is not in the best interest of
23 the State and by written explanation determines another bidder
24 shall receive the award. The explanation shall appear in the
25 appropriate volume of the Illinois Procurement Bulletin. The
26 written explanation must include:

1 (1) a description of the agency's needs;

2 (2) a determination that the anticipated cost will be
3 fair and reasonable;

4 (3) a listing of all responsible and responsive
5 bidders; and

6 (4) the name of the bidder selected, the total contract
7 price, and the reasons for selecting that bidder.

8 Each chief procurement officer may adopt guidelines to
9 implement the requirements of this subsection (g).

10 The written explanation shall be filed with the Legislative
11 Audit Commission and the Procurement Policy Board, and be made
12 available for inspection by the public, within 30 days after
13 the agency's decision to award the contract.

14 (h) Multi-step sealed bidding. When it is considered
15 impracticable to initially prepare a purchase description to
16 support an award based on price, an invitation for bids may be
17 issued requesting the submission of unpriced offers to be
18 followed by an invitation for bids limited to those bidders
19 whose offers have been qualified under the criteria set forth
20 in the first solicitation.

21 (i) Alternative procedures. Notwithstanding any other
22 provision of this Act to the contrary, the Director of the
23 Illinois Power Agency may create alternative bidding
24 procedures to be used in procuring professional services under
25 subsections ~~subsection~~ (a) and (c) of Section 1-75 and
26 subsection (d) of Section 1-78 of the Illinois Power Agency Act

1 and Section 16-111.5(c) of the Public Utilities Act and to
2 procure renewable energy resources under Section 1-56 of the
3 Illinois Power Agency Act. These alternative procedures shall
4 be set forth together with the other criteria contained in the
5 invitation for bids, and shall appear in the appropriate volume
6 of the Illinois Procurement Bulletin.

7 (j) Reverse auction. Notwithstanding any other provision
8 of this Section and in accordance with rules adopted by the
9 chief procurement officer, that chief procurement officer may
10 procure supplies or services through a competitive electronic
11 auction bidding process after the chief procurement officer
12 determines that the use of such a process will be in the best
13 interest of the State. The chief procurement officer shall
14 publish that determination in his or her next volume of the
15 Illinois Procurement Bulletin.

16 An invitation for bids shall be issued and shall include
17 (i) a procurement description, (ii) all contractual terms,
18 whenever practical, and (iii) conditions applicable to the
19 procurement, including a notice that bids will be received in
20 an electronic auction manner.

21 Public notice of the invitation for bids shall be given in
22 the same manner as provided in subsection (c).

23 Bids shall be accepted electronically at the time and in
24 the manner designated in the invitation for bids. During the
25 auction, a bidder's price shall be disclosed to other bidders.
26 Bidders shall have the opportunity to reduce their bid prices

1 during the auction. At the conclusion of the auction, the
2 record of the bid prices received and the name of each bidder
3 shall be open to public inspection.

4 After the auction period has terminated, withdrawal of bids
5 shall be permitted as provided in subsection (f).

6 The contract shall be awarded within 60 calendar days after
7 the auction by written notice to the lowest responsible bidder,
8 or all bids shall be rejected except as otherwise provided in
9 this Code. Extensions of the date for the award may be made by
10 mutual written consent of the State purchasing officer and the
11 lowest responsible bidder.

12 This subsection does not apply to (i) procurements of
13 professional and artistic services, (ii) telecommunications
14 services, communication services, and information services,
15 and (iii) contracts for construction projects, including
16 design professional services.

17 (Source: P.A. 97-96, eff. 7-13-11; 97-895, eff. 8-3-12;
18 98-1076, eff. 1-1-15.)

19 Section 15. The Public Utilities Act is amended by changing
20 Sections 5-117, 5-202.1, 8-103, 8-104, 16-107, 16-107.5,
21 16-108, 16-108.5, 16-111.1, 16-111.5, 16-111.5B, 16-111.7,
22 16-115D, 16-119A, 16-127, and 16-128A and by adding Sections
23 8-103B, 9-107, 16-107.6, 16-108.10, 16-108.11, 16-108.12,
24 16-108.15, and 16-108.16 as follows:

1 (220 ILCS 5/5-117)

2 Sec. 5-117. Supplier diversity goals.

3 (a) The public policy of this State is to collaboratively
4 work with companies that serve Illinois residents to improve
5 their supplier diversity in a non-antagonistic manner.

6 (b) The Commission shall require all gas, electric, and
7 water companies with at least 100,000 customers under its
8 authority, as well as suppliers of wind energy, solar energy,
9 hydroelectricity, nuclear energy, and any other supplier of
10 energy within this State, to submit an annual report by April
11 15, 2015 and every April 15 thereafter, in a searchable Adobe
12 PDF format, on all procurement goals and actual spending for
13 female-owned, minority-owned, veteran-owned, and small
14 business enterprises in the previous calendar year. These goals
15 shall be expressed as a percentage of the total work performed
16 by the entity submitting the report, and the actual spending
17 for all female-owned, minority-owned, veteran-owned, and small
18 business enterprises shall also be expressed as a percentage of
19 the total work performed by the entity submitting the report.

20 (c) Each participating company in its annual report shall
21 include the following information:

22 (1) an explanation of the plan for the next year to
23 increase participation;

24 (2) an explanation of the plan to increase the goals;

25 (3) the areas of procurement each company shall be
26 actively seeking more participation in in the next year;

1 (4) an outline of the plan to alert and encourage
2 potential vendors in that area to seek business from the
3 company;

4 (5) an explanation of the challenges faced in finding
5 quality vendors and offer any suggestions for what the
6 Commission could do to be helpful to identify those
7 vendors;

8 (6) a list of the certifications the company
9 recognizes;

10 (7) the point of contact for any potential vendor who
11 wishes to do business with the company and explain the
12 process for a vendor to enroll with the company as a
13 minority-owned, women-owned, or veteran-owned company; and

14 (8) any particular success stories to encourage other
15 companies to emulate best practices.

16 (d) Each annual report shall include as much State-specific
17 data as possible. If the submitting entity does not submit
18 State-specific data, then the company shall include any
19 national data it does have and explain why it could not submit
20 State-specific data and how it intends to do so in future
21 reports, if possible.

22 (e) Each annual report shall include the rules,
23 regulations, and definitions used for the procurement goals in
24 the company's annual report.

25 (f) The Commission and all participating entities shall
26 hold an annual workshop open to the public in 2015 and every

1 year thereafter on the state of supplier diversity to
2 collaboratively seek solutions to structural impediments to
3 achieving stated goals, including testimony from each
4 participating entity as well as subject matter experts and
5 advocates. The Commission shall publish a database on its
6 website of the point of contact for each participating entity
7 for supplier diversity, along with a list of certifications
8 each company recognizes from the information submitted in each
9 annual report. The Commission shall publish each annual report
10 on its website and shall maintain each annual report for at
11 least 5 years.

12 (Source: P.A. 98-1056, eff. 8-26-14.)

13 (220 ILCS 5/5-202.1)

14 Sec. 5-202.1. Misrepresentation before Commission;
15 penalty.

16 (a) Any person or corporation, as defined in Sections 3-113
17 and 3-114 of this Act, who knowingly misrepresents facts to the
18 Commission in response to any Commission contact, inquiry or
19 discussion or knowingly aids another in doing so in response to
20 any Commission contact, inquiry or discussion or knowingly
21 permits another to misrepresent facts through testimony or the
22 offering or withholding of material information in any
23 proceeding shall be subject to a civil penalty. Whenever the
24 Commission is of the opinion that a person or corporation is
25 misrepresenting or has misrepresented facts, the Commission

1 may initiate a proceeding to determine whether a
2 misrepresentation has in fact occurred. If the Commission finds
3 that a person or corporation has violated this Section, the
4 Commission shall impose a penalty of not less than \$1,000 ~~and~~
5 ~~not greater than \$500,000~~. Each misrepresentation of a fact
6 found by the Commission shall constitute a separate and
7 distinct violation. In determining the amount of the penalty to
8 be assessed, the Commission may consider any matters of record
9 in aggravation or mitigation of the penalty, as set forth in
10 Section 4-203, including but not limited to the following:

11 (1) the presence or absence of due diligence on the
12 part of the violator in attempting to comply with the Act;

13 (2) any economic benefits accrued, or expected to be
14 accrued, by the violator because of the misrepresentation;
15 and

16 (3) the amount of monetary penalty that will serve to
17 deter further violations by the violator and to otherwise
18 aid in enhancing voluntary compliance with the Act.

19 (b) Any action to enforce civil penalties arising under
20 this Section shall be undertaken pursuant to Section 4-203.

21 (c) For purposes of this Section, "Commission," as defined
22 in Section 3-102, refers to any Commissioner, agent, or
23 employee of the Illinois Commerce commission, and also refers
24 to any other person engaged to represent the Commission in
25 carrying out its regulatory or law enforcement obligations.

26 (Source: P.A. 93-457, eff. 8-8-03.)

1 (220 ILCS 5/8-103)

2 Sec. 8-103. Energy efficiency and demand-response
3 measures.

4 (a) It is the policy of the State that electric utilities
5 are required to use cost-effective energy efficiency and
6 demand-response measures to reduce delivery load. Requiring
7 investment in cost-effective energy efficiency and
8 demand-response measures will reduce direct and indirect costs
9 to consumers by decreasing environmental impacts and by
10 avoiding or delaying the need for new generation, transmission,
11 and distribution infrastructure. It serves the public interest
12 to allow electric utilities to recover costs for reasonably and
13 prudently incurred expenses for energy efficiency and
14 demand-response measures. As used in this Section,
15 "cost-effective" means that the measures satisfy the total
16 resource cost test. The low-income measures described in
17 subsection (f)(4) of this Section shall not be required to meet
18 the total resource cost test. For purposes of this Section, the
19 terms "energy-efficiency", "demand-response", "electric
20 utility", and "total resource cost test" shall have the
21 meanings set forth in the Illinois Power Agency Act. For
22 purposes of this Section, the amount per kilowatthour means the
23 total amount paid for electric service expressed on a per
24 kilowatthour basis. For purposes of this Section, the total
25 amount paid for electric service includes without limitation

1 estimated amounts paid for supply, transmission, distribution,
2 surcharges, and add-on-taxes.

3 (a-5) This Section applies to electric utilities serving
4 500,000 or less but more than 200,000 retail customers in this
5 State. Through December 31, 2017, this Section also applies to
6 electric utilities serving more than 500,000 retail customers
7 in the State.

8 (b) Electric utilities shall implement cost-effective
9 energy efficiency measures to meet the following incremental
10 annual energy savings goals:

11 (1) 0.2% of energy delivered in the year commencing
12 June 1, 2008;

13 (2) 0.4% of energy delivered in the year commencing
14 June 1, 2009;

15 (3) 0.6% of energy delivered in the year commencing
16 June 1, 2010;

17 (4) 0.8% of energy delivered in the year commencing
18 June 1, 2011;

19 (5) 1% of energy delivered in the year commencing June
20 1, 2012;

21 (6) 1.4% of energy delivered in the year commencing
22 June 1, 2013;

23 (7) 1.8% of energy delivered in the year commencing
24 June 1, 2014; and

25 (8) 2% of energy delivered in the year commencing June
26 1, 2015 and each year thereafter.

1 Electric utilities may comply with this subsection (b) by
2 meeting the annual incremental savings goal in the applicable
3 year or by showing that the total cumulative annual savings
4 within a 3-year planning period associated with measures
5 implemented after May 31, 2014 was equal to the sum of each
6 annual incremental savings requirement from May 31, 2014
7 through the end of the applicable year.

8 (c) Electric utilities shall implement cost-effective
9 demand-response measures to reduce peak demand by 0.1% over the
10 prior year for eligible retail customers, as defined in Section
11 16-111.5 of this Act, and for customers that elect hourly
12 service from the utility pursuant to Section 16-107 of this
13 Act, provided those customers have not been declared
14 competitive. This requirement commences June 1, 2008 and
15 continues for 10 years.

16 (d) Notwithstanding the requirements of subsections (b)
17 and (c) of this Section, an electric utility shall reduce the
18 amount of energy efficiency and demand-response measures
19 implemented over a 3-year planning period by an amount
20 necessary to limit the estimated average annual increase in the
21 amounts paid by retail customers in connection with electric
22 service due to the cost of those measures to:

23 (1) in 2008, no more than 0.5% of the amount paid per
24 kilowatthour by those customers during the year ending May
25 31, 2007;

26 (2) in 2009, the greater of an additional 0.5% of the

1 amount paid per kilowatthour by those customers during the
2 year ending May 31, 2008 or 1% of the amount paid per
3 kilowatthour by those customers during the year ending May
4 31, 2007;

5 (3) in 2010, the greater of an additional 0.5% of the
6 amount paid per kilowatthour by those customers during the
7 year ending May 31, 2009 or 1.5% of the amount paid per
8 kilowatthour by those customers during the year ending May
9 31, 2007;

10 (4) in 2011, the greater of an additional 0.5% of the
11 amount paid per kilowatthour by those customers during the
12 year ending May 31, 2010 or 2% of the amount paid per
13 kilowatthour by those customers during the year ending May
14 31, 2007; and

15 (5) thereafter, the amount of energy efficiency and
16 demand-response measures implemented for any single year
17 shall be reduced by an amount necessary to limit the
18 estimated average net increase due to the cost of these
19 measures included in the amounts paid by eligible retail
20 customers in connection with electric service to no more
21 than the greater of 2.015% of the amount paid per
22 kilowatthour by those customers during the year ending May
23 31, 2007 or the incremental amount per kilowatthour paid
24 for these measures in 2011.

25 No later than June 30, 2011, the Commission shall review
26 the limitation on the amount of energy efficiency and

1 demand-response measures implemented pursuant to this Section
2 and report to the General Assembly its findings as to whether
3 that limitation unduly constrains the procurement of energy
4 efficiency and demand-response measures.

5 (e) Electric utilities shall be responsible for overseeing
6 the design, development, and filing of energy efficiency and
7 demand-response plans with the Commission. Electric utilities
8 shall implement 100% of the demand-response measures in the
9 plans. Electric utilities shall implement 75% of the energy
10 efficiency measures approved by the Commission, and may, as
11 part of that implementation, outsource various aspects of
12 program development and implementation. The remaining 25% of
13 those energy efficiency measures approved by the Commission
14 shall be implemented by the Department of Commerce and Economic
15 Opportunity, and must be designed in conjunction with the
16 utility and the filing process. The Department may outsource
17 development and implementation of energy efficiency measures.
18 A minimum of 10% of the entire portfolio of cost-effective
19 energy efficiency measures shall be procured from units of
20 local government, municipal corporations, school districts,
21 and community college districts. The Department shall
22 coordinate the implementation of these measures.

23 The apportionment of the dollars to cover the costs to
24 implement the Department's share of the portfolio of energy
25 efficiency measures shall be made to the Department once the
26 Department has executed rebate agreements, grants, or

1 contracts for energy efficiency measures and provided
2 supporting documentation for those rebate agreements, grants,
3 and contracts to the utility. The Department is authorized to
4 adopt any rules necessary and prescribe procedures in order to
5 ensure compliance by applicants in carrying out the purposes of
6 rebate agreements for energy efficiency measures implemented
7 by the Department made under this Section.

8 The details of the measures implemented by the Department
9 shall be submitted by the Department to the Commission in
10 connection with the utility's filing regarding the energy
11 efficiency and demand-response measures that the utility
12 implements.

13 A utility providing approved energy efficiency and
14 demand-response measures in the State shall be permitted to
15 recover costs of those measures through an automatic adjustment
16 clause tariff filed with and approved by the Commission. The
17 tariff shall be established outside the context of a general
18 rate case. Each year the Commission shall initiate a review to
19 reconcile any amounts collected with the actual costs and to
20 determine the required adjustment to the annual tariff factor
21 to match annual expenditures.

22 Each utility shall include, in its recovery of costs, the
23 costs estimated for both the utility's and the Department's
24 implementation of energy efficiency and demand-response
25 measures. Costs collected by the utility for measures
26 implemented by the Department shall be submitted to the

1 Department pursuant to Section 605-323 of the Civil
2 Administrative Code of Illinois, shall be deposited into the
3 Energy Efficiency Portfolio Standards Fund, and shall be used
4 by the Department solely for the purpose of implementing these
5 measures. A utility shall not be required to advance any moneys
6 to the Department but only to forward such funds as it has
7 collected. The Department shall report to the Commission on an
8 annual basis regarding the costs actually incurred by the
9 Department in the implementation of the measures. Any changes
10 to the costs of energy efficiency measures as a result of plan
11 modifications shall be appropriately reflected in amounts
12 recovered by the utility and turned over to the Department.

13 The portfolio of measures, administered by both the
14 utilities and the Department, shall, in combination, be
15 designed to achieve the annual savings targets described in
16 subsections (b) and (c) of this Section, as modified by
17 subsection (d) of this Section.

18 The utility and the Department shall agree upon a
19 reasonable portfolio of measures and determine the measurable
20 corresponding percentage of the savings goals associated with
21 measures implemented by the utility or Department.

22 No utility shall be assessed a penalty under subsection (f)
23 of this Section for failure to make a timely filing if that
24 failure is the result of a lack of agreement with the
25 Department with respect to the allocation of responsibilities
26 or related costs or target assignments. In that case, the

1 Department and the utility shall file their respective plans
2 with the Commission and the Commission shall determine an
3 appropriate division of measures and programs that meets the
4 requirements of this Section.

5 If the Department is unable to meet incremental annual
6 performance goals for the portion of the portfolio implemented
7 by the Department, then the utility and the Department shall
8 jointly submit a modified filing to the Commission explaining
9 the performance shortfall and recommending an appropriate
10 course going forward, including any program modifications that
11 may be appropriate in light of the evaluations conducted under
12 item (7) of subsection (f) of this Section. In this case, the
13 utility obligation to collect the Department's costs and turn
14 over those funds to the Department under this subsection (e)
15 shall continue only if the Commission approves the
16 modifications to the plan proposed by the Department.

17 (f) No later than November 15, 2007, each electric utility
18 shall file an energy efficiency and demand-response plan with
19 the Commission to meet the energy efficiency and
20 demand-response standards for 2008 through 2010. No later than
21 October 1, 2010, each electric utility shall file an energy
22 efficiency and demand-response plan with the Commission to meet
23 the energy efficiency and demand-response standards for 2011
24 through 2013. Every 3 years thereafter, each electric utility
25 shall file, no later than September 1, an energy efficiency and
26 demand-response plan with the Commission. If a utility does not

1 file such a plan by September 1 of an applicable year, it shall
2 face a penalty of \$100,000 per day until the plan is filed.
3 Each utility's plan shall set forth the utility's proposals to
4 meet the utility's portion of the energy efficiency standards
5 identified in subsection (b) and the demand-response standards
6 identified in subsection (c) of this Section as modified by
7 subsections (d) and (e), taking into account the unique
8 circumstances of the utility's service territory. The
9 Commission shall seek public comment on the utility's plan and
10 shall issue an order approving or disapproving each plan within
11 5 months after its submission. If the Commission disapproves a
12 plan, the Commission shall, within 30 days, describe in detail
13 the reasons for the disapproval and describe a path by which
14 the utility may file a revised draft of the plan to address the
15 Commission's concerns satisfactorily. If the utility does not
16 refile with the Commission within 60 days, the utility shall be
17 subject to penalties at a rate of \$100,000 per day until the
18 plan is filed. This process shall continue, and penalties shall
19 accrue, until the utility has successfully filed a portfolio of
20 energy efficiency and demand-response measures. Penalties
21 shall be deposited into the Energy Efficiency Trust Fund. In
22 submitting proposed energy efficiency and demand-response
23 plans and funding levels to meet the savings goals adopted by
24 this Act the utility shall:

- 25 (1) Demonstrate that its proposed energy efficiency
26 and demand-response measures will achieve the requirements

1 that are identified in subsections (b) and (c) of this
2 Section, as modified by subsections (d) and (e).

3 (2) Present specific proposals to implement new
4 building and appliance standards that have been placed into
5 effect.

6 (3) Present estimates of the total amount paid for
7 electric service expressed on a per kilowatthour basis
8 associated with the proposed portfolio of measures
9 designed to meet the requirements that are identified in
10 subsections (b) and (c) of this Section, as modified by
11 subsections (d) and (e).

12 (4) Coordinate with the Department to present a
13 portfolio of energy efficiency measures proportionate to
14 the share of total annual utility revenues in Illinois from
15 households at or below 150% of the poverty level. The
16 energy efficiency programs shall be targeted to households
17 with incomes at or below 80% of area median income.

18 (5) Demonstrate that its overall portfolio of energy
19 efficiency and demand-response measures, not including
20 programs covered by item (4) of this subsection (f), are
21 cost-effective using the total resource cost test and
22 represent a diverse cross-section of opportunities for
23 customers of all rate classes to participate in the
24 programs.

25 (6) Include a proposed cost-recovery tariff mechanism
26 to fund the proposed energy efficiency and demand-response

1 measures and to ensure the recovery of the prudently and
2 reasonably incurred costs of Commission-approved programs.

3 (7) Provide for an annual independent evaluation of the
4 performance of the cost-effectiveness of the utility's
5 portfolio of measures and the Department's portfolio of
6 measures, as well as a full review of the 3-year results of
7 the broader net program impacts and, to the extent
8 practical, for adjustment of the measures on a
9 going-forward basis as a result of the evaluations. The
10 resources dedicated to evaluation shall not exceed 3% of
11 portfolio resources in any given year.

12 (g) No more than 3% of energy efficiency and
13 demand-response program revenue may be allocated for
14 demonstration of breakthrough equipment and devices.

15 (h) This Section does not apply to an electric utility that
16 on December 31, 2005 provided electric service to fewer than
17 100,000 customers in Illinois.

18 (i) If, after 2 years, an electric utility fails to meet
19 the efficiency standard specified in subsection (b) of this
20 Section, as modified by subsections (d) and (e), it shall make
21 a contribution to the Low-Income Home Energy Assistance
22 Program. The combined total liability for failure to meet the
23 goal shall be \$1,000,000, which shall be assessed as follows: a
24 large electric utility shall pay \$665,000, and a medium
25 electric utility shall pay \$335,000. If, after 3 years, an
26 electric utility fails to meet the efficiency standard

1 specified in subsection (b) of this Section, as modified by
2 subsections (d) and (e), it shall make a contribution to the
3 Low-Income Home Energy Assistance Program. The combined total
4 liability for failure to meet the goal shall be \$1,000,000,
5 which shall be assessed as follows: a large electric utility
6 shall pay \$665,000, and a medium electric utility shall pay
7 \$335,000. In addition, the responsibility for implementing the
8 energy efficiency measures of the utility making the payment
9 shall be transferred to the Illinois Power Agency if, after 3
10 years, or in any subsequent 3-year period, the utility fails to
11 meet the efficiency standard specified in subsection (b) of
12 this Section, as modified by subsections (d) and (e). The
13 Agency shall implement a competitive procurement program to
14 procure resources necessary to meet the standards specified in
15 this Section as modified by subsections (d) and (e), with costs
16 for those resources to be recovered in the same manner as
17 products purchased through the procurement plan as provided in
18 Section 16-111.5. The Director shall implement this
19 requirement in connection with the procurement plan as provided
20 in Section 16-111.5.

21 For purposes of this Section, (i) a "large electric
22 utility" is an electric utility that, on December 31, 2005,
23 served more than 2,000,000 electric customers in Illinois; (ii)
24 a "medium electric utility" is an electric utility that, on
25 December 31, 2005, served 2,000,000 or fewer but more than
26 100,000 electric customers in Illinois; and (iii) Illinois

1 electric utilities that are affiliated by virtue of a common
2 parent company are considered a single electric utility.

3 (j) If, after 3 years, or any subsequent 3-year period, the
4 Department fails to implement the Department's share of energy
5 efficiency measures required by the standards in subsection
6 (b), then the Illinois Power Agency may assume responsibility
7 for and control of the Department's share of the required
8 energy efficiency measures. The Agency shall implement a
9 competitive procurement program to procure resources necessary
10 to meet the standards specified in this Section, with the costs
11 of these resources to be recovered in the same manner as
12 provided for the Department in this Section.

13 (k) No electric utility shall be deemed to have failed to
14 meet the energy efficiency standards to the extent any such
15 failure is due to a failure of the Department or the Agency.

16 (l)(1) The energy efficiency and demand-response plans of
17 electric utilities serving more than 500,000 retail customers
18 in the State that were approved by the Commission on or before
19 the effective date of this amendatory Act of the 99th General
20 Assembly for the period June 1, 2014 through May 31, 2017 shall
21 continue to be in force and effect through December 31, 2017 so
22 that the energy efficiency programs set forth in those plans
23 continue to be offered during the period June 1, 2017 through
24 December 31, 2017. Each such utility is authorized to increase,
25 on a pro rata basis, the energy savings goals and budgets
26 approved in its plan to reflect the additional 7 months of the

1 plan's operation, provided that such increase shall also
2 incorporate reductions to goals and budgets to reflect the
3 proportion of the utility's load attributable to customers who
4 are exempt from this Section under subsection (m) of this
5 Section.

6 (2) If an electric utility serving more than 500,000
7 retail customers in the State filed with the Commission,
8 under subsection (f) of this Section, its proposed energy
9 efficiency and demand-response plan for the period June 1,
10 2017 through May 31, 2020, and the Commission has not yet
11 entered its final order approving such plan on or before
12 the effective date of this amendatory Act of the 99th
13 General Assembly, then the utility shall file a notice of
14 withdrawal with the Commission, following such effective
15 date, to withdraw the proposed energy efficiency and
16 demand-response plan. Upon receipt of such notice, the
17 Commission shall dismiss with prejudice any docket that had
18 been initiated to investigate such plan, and the plan and
19 the record related thereto shall not be the subject of any
20 further hearing, investigation, or proceeding of any kind.

21 (3) For those electric utilities that serve more than
22 500,000 retail customers in the State, this amendatory Act
23 of the 99th General Assembly preempts and supersedes any
24 orders entered by the Commission that approved such
25 utilities' energy efficiency and demand response plans for
26 the period commencing June 1, 2017 and ending May 31, 2020.

1 Any such orders shall be void, and the provisions of
2 paragraph (1) of this subsection (1) shall apply.

3 (m) Notwithstanding anything to the contrary, after May 31,
4 2017, this Section does not apply to any retail customers of an
5 electric utility that serves more than 3,000,000 retail
6 customers in the State and whose total highest 30 minute demand
7 was more than 10,000 kilowatts, or any retail customers of an
8 electric utility that serves less than 3,000,000 retail
9 customers but more than 500,000 retail customers in the State
10 and whose total highest 15 minute demand was more than 10,000
11 kilowatts. For purposes of this subsection (m), "retail
12 customer" has the meaning set forth in Section 16-102 of this
13 Act. The criteria for determining whether this subsection (m)
14 is applicable to a retail customer shall be based on the 12
15 consecutive billing periods prior to the start of the first
16 year of each such multi-year plan.

17 (Source: P.A. 97-616, eff. 10-26-11; 97-841, eff. 7-20-12;
18 98-90, eff. 7-15-13.)

19 (220 ILCS 5/8-103B new)

20 Sec. 8-103B. Energy efficiency and demand-response
21 measures.

22 (a) It is the policy of the State that electric utilities
23 are required to use cost-effective energy efficiency and
24 demand-response measures to reduce delivery load. Requiring
25 investment in cost-effective energy efficiency and

1 demand-response measures will reduce direct and indirect costs
2 to consumers by decreasing environmental impacts and by
3 avoiding or delaying the need for new generation, transmission,
4 and distribution infrastructure. It serves the public interest
5 to allow electric utilities to recover costs for reasonably and
6 prudently incurred expenditures for energy efficiency and
7 demand-response measures. As used in this Section,
8 "cost-effective" means that the measures satisfy the total
9 resource cost test. The low-income measures described in
10 subsection (c) of this Section shall not be required to meet
11 the total resource cost test. For purposes of this Section, the
12 terms "energy-efficiency", "demand-response", "electric
13 utility", and "total resource cost test" have the meanings set
14 forth in the Illinois Power Agency Act.

15 (a-5) This Section applies to electric utilities serving
16 more than 500,000 retail customers in the State for those
17 multi-year plans commencing after December 31, 2017.

18 (b) For purposes of this Section, electric utilities
19 subject to this Section that serve more than 3,000,000 retail
20 customers in the State shall be deemed to have achieved a
21 cumulative persisting annual savings of 6.6% from energy
22 efficiency measures and programs implemented during the period
23 beginning January 1, 2012 and ending December 31, 2017, which
24 percent is based on the deemed average weather normalized sales
25 of electric power and energy during calendar years 2014, 2015,
26 and 2016 of 88,000,000 MWhs. For the purposes of this

1 subsection (b) and subsection (b-5), the 88,000,000 MWhs of
2 deemed electric power and energy sales shall be reduced by the
3 number of MWhs equal to the sum of the annual consumption of
4 customers that are exempt from subsections (a) through (j) of
5 this Section under subsection (l) of this Section, as averaged
6 across the calendar years 2014, 2015, and 2016. After 2017, the
7 deemed value of cumulative persisting annual savings from
8 energy efficiency measures and programs implemented during the
9 period beginning January 1, 2012 and ending December 31, 2017,
10 shall be reduced each year, as follows, and the applicable
11 value shall be applied to and count toward the utility's
12 achievement of the cumulative persisting annual savings goals
13 set forth in subsection (b-5):

14 (1) 5.8% deemed cumulative persisting annual savings
15 for the year ending December 31, 2018;

16 (2) 5.2% deemed cumulative persisting annual savings
17 for the year ending December 31, 2019;

18 (3) 4.5% deemed cumulative persisting annual savings
19 for the year ending December 31, 2020;

20 (4) 4.0% deemed cumulative persisting annual savings
21 for the year ending December 31, 2021;

22 (5) 3.5% deemed cumulative persisting annual savings
23 for the year ending December 31, 2022;

24 (6) 3.1% deemed cumulative persisting annual savings
25 for the year ending December 31, 2023;

26 (7) 2.8% deemed cumulative persisting annual savings

1 for the year ending December 31, 2024;

2 (8) 2.5% deemed cumulative persisting annual savings
3 for the year ending December 31, 2025;

4 (9) 2.3% deemed cumulative persisting annual savings
5 for the year ending December 31, 2026;

6 (10) 2.1% deemed cumulative persisting annual savings
7 for the year ending December 31, 2027;

8 (11) 1.8% deemed cumulative persisting annual savings
9 for the year ending December 31, 2028;

10 (12) 1.7% deemed cumulative persisting annual savings
11 for the year ending December 31, 2029; and

12 (13) 1.5% deemed cumulative persisting annual savings
13 for the year ending December 31, 2030.

14 For purposes of this Section, "cumulative persisting
15 annual savings" means the total electric energy savings in a
16 given year from measures installed in that year or in previous
17 years, but no earlier than January 1, 2012, that are still
18 operational and providing savings in that year because the
19 measures have not yet reached the end of their useful lives.

20 (b-5) Beginning in 2018, electric utilities subject to this
21 Section that serve more than 3,000,000 retail customers in the
22 State shall achieve the following cumulative persisting annual
23 savings goals, as modified by subsection (f) of this Section
24 and as compared to the deemed baseline of 88,000,000 MWhs of
25 electric power and energy sales set forth in subsection (b), as
26 reduced by the number of MWhs equal to the sum of the annual

1 consumption of customers that are exempt from subsections (a)
2 through (j) of this Section under subsection (1) of this
3 Section as averaged across the calendar years 2014, 2015, and
4 2016, through the implementation of energy efficiency measures
5 during the applicable year and in prior years, but no earlier
6 than January 1, 2012:

7 (1) 7.8% cumulative persisting annual savings for the
8 year ending December 31, 2018;

9 (2) 9.1% cumulative persisting annual savings for the
10 year ending December 31, 2019;

11 (3) 10.4% cumulative persisting annual savings for the
12 year ending December 31, 2020;

13 (4) 11.8% cumulative persisting annual savings for the
14 year ending December 31, 2021;

15 (5) 13.1% cumulative persisting annual savings for the
16 year ending December 31, 2022;

17 (6) 14.4% cumulative persisting annual savings for the
18 year ending December 31, 2023;

19 (7) 15.7% cumulative persisting annual savings for the
20 year ending December 31, 2024;

21 (8) 17% cumulative persisting annual savings for the
22 year ending December 31, 2025;

23 (9) 17.9% cumulative persisting annual savings for the
24 year ending December 31, 2026;

25 (10) 18.8% cumulative persisting annual savings for
26 the year ending December 31, 2027;

1 (11) 19.7% cumulative persisting annual savings for
2 the year ending December 31, 2028;

3 (12) 20.6% cumulative persisting annual savings for
4 the year ending December 31, 2029; and

5 (13) 21.5% cumulative persisting annual savings for
6 the year ending December 31, 2030.

7 (b-10) For purposes of this Section, electric utilities
8 subject to this Section that serve less than 3,000,000 retail
9 customers but more than 500,000 retail customers in the State
10 shall be deemed to have achieved a cumulative persisting annual
11 savings of 6.6% from energy efficiency measures and programs
12 implemented during the period beginning January 1, 2012 and
13 ending December 31, 2017, which is based on the deemed average
14 weather normalized sales of electric power and energy during
15 calendar years 2014, 2015, and 2016 of 36,900,000 MWhs. For the
16 purposes of this subsection (b-10) and subsection (b-15), the
17 36,900,000 MWhs of deemed electric power and energy sales shall
18 be reduced by the number of MWhs equal to the sum of the annual
19 consumption of customers that are exempt from subsections (a)
20 through (j) of this Section under subsection (1) of this
21 Section, as averaged across the calendar years 2014, 2015, and
22 2016. After 2017, the deemed value of cumulative persisting
23 annual savings from energy efficiency measures and programs
24 implemented during the period beginning January 1, 2012 and
25 ending December 31, 2017, shall be reduced each year, as
26 follows, and the applicable value shall be applied to and count

1 toward the utility's achievement of the cumulative persisting
2 annual savings goals set forth in subsection (b-15):

3 (1) 5.8% deemed cumulative persisting annual savings
4 for the year ending December 31, 2018;

5 (2) 5.2% deemed cumulative persisting annual savings
6 for the year ending December 31, 2019;

7 (3) 4.5% deemed cumulative persisting annual savings
8 for the year ending December 31, 2020;

9 (4) 4.0% deemed cumulative persisting annual savings
10 for the year ending December 31, 2021;

11 (5) 3.5% deemed cumulative persisting annual savings
12 for the year ending December 31, 2022;

13 (6) 3.1% deemed cumulative persisting annual savings
14 for the year ending December 31, 2023;

15 (7) 2.8% deemed cumulative persisting annual savings
16 for the year ending December 31, 2024;

17 (8) 2.5% deemed cumulative persisting annual savings
18 for the year ending December 31, 2025;

19 (9) 2.3% deemed cumulative persisting annual savings
20 for the year ending December 31, 2026;

21 (10) 2.1% deemed cumulative persisting annual savings
22 for the year ending December 31, 2027;

23 (11) 1.8% deemed cumulative persisting annual savings
24 for the year ending December 31, 2028;

25 (12) 1.7% deemed cumulative persisting annual savings
26 for the year ending December 31, 2029; and

1 (13) 1.5% deemed cumulative persisting annual savings
2 for the year ending December 31, 2030.

3 (b-15) Beginning in 2018, electric utilities subject to
4 this Section that serve less than 3,000,000 retail customers
5 but more than 500,000 retail customers in the State shall
6 achieve the following cumulative persisting annual savings
7 goals, as modified by subsection (b-20) and subsection (f) of
8 this Section and as compared to the deemed baseline as reduced
9 by the number of MWhs equal to the sum of the annual
10 consumption of customers that are exempt from subsections (a)
11 through (j) of this Section under subsection (l) of this
12 Section as averaged across the calendar years 2014, 2015, and
13 2016, through the implementation of energy efficiency measures
14 during the applicable year and in prior years, but no earlier
15 than January 1, 2012:

16 (1) 7.4% cumulative persisting annual savings for the
17 year ending December 31, 2018;

18 (2) 8.2% cumulative persisting annual savings for the
19 year ending December 31, 2019;

20 (3) 9.0% cumulative persisting annual savings for the
21 year ending December 31, 2020;

22 (4) 9.8% cumulative persisting annual savings for the
23 year ending December 31, 2021;

24 (5) 10.6% cumulative persisting annual savings for the
25 year ending December 31, 2022;

26 (6) 11.4% cumulative persisting annual savings for the

year ending December 31, 2023;

(7) 12.2% cumulative persisting annual savings for the
year ending December 31, 2024;

(8) 13% cumulative persisting annual savings for the
year ending December 31, 2025;

(9) 13.6% cumulative persisting annual savings for the
year ending December 31, 2026;

(10) 14.2% cumulative persisting annual savings for
the year ending December 31, 2027;

(11) 14.8% cumulative persisting annual savings for
the year ending December 31, 2028;

(12) 15.4% cumulative persisting annual savings for
the year ending December 31, 2029; and

(13) 16% cumulative persisting annual savings for the
year ending December 31, 2030.

The difference between the cumulative persisting annual
savings goal for the applicable calendar year and the
cumulative persisting annual savings goal for the immediately
preceding calendar year is 0.8% for the period of January 1,
2018 through December 31, 2025 and 0.6% for the period of
January 1, 2026 through December 31, 2030.

(b-20) Each electric utility subject to this Section may
include cost-effective voltage optimization measures in its
plans submitted under subsections (f) and (g) of this Section,
and the costs incurred by a utility to implement the measures
under a Commission-approved plan shall be recovered under the

1 provisions of Article IX or Section 16-108.5 of this Act. For
2 purposes of this Section, the measure life of voltage
3 optimization measures shall be 15 years. The measure life
4 period is independent of the depreciation rate of the voltage
5 optimization assets deployed.

6 Within 270 days after the effective date of this amendatory
7 Act of the 99th General Assembly, an electric utility that
8 serves less than 3,000,000 retail customers but more than
9 500,000 retail customers in the State shall file a plan with
10 the Commission that identifies the cost-effective voltage
11 optimization investment the electric utility plans to
12 undertake through December 31, 2024. The Commission, after
13 notice and hearing, shall approve or approve with modification
14 the plan within 120 days after the plan's filing and, in the
15 order approving or approving with modification the plan, the
16 Commission shall adjust the applicable cumulative persisting
17 annual savings goals set forth in subsection (b-15) to reflect
18 any amount of cost-effective energy savings approved by the
19 Commission that is greater than or less than the following
20 cumulative persisting annual savings values attributable to
21 voltage optimization for the applicable year:

22 (1) 0.0% of cumulative persisting annual savings for
23 the year ending December 31, 2018;

24 (2) 0.17% of cumulative persisting annual savings for
25 the year ending December 31, 2019;

26 (3) 0.17% of cumulative persisting annual savings for

1 the year ending December 31, 2020;

2 (4) 0.33% of cumulative persisting annual savings for
3 the year ending December 31, 2021;

4 (5) 0.5% of cumulative persisting annual savings for
5 the year ending December 31, 2022;

6 (6) 0.67% of cumulative persisting annual savings for
7 the year ending December 31, 2023;

8 (7) 0.83% of cumulative persisting annual savings for
9 the year ending December 31, 2024; and

10 (8) 1.0% of cumulative persisting annual savings for
11 the year ending December 31, 2025.

12 (b-25) In the event an electric utility jointly offers an
13 energy efficiency measure or program with a gas utility under
14 plans approved under this Section and Section 8-104 of this
15 Act, the electric utility may continue offering the program,
16 including the gas energy efficiency measures, in the event the
17 gas utility discontinues funding the program. In that event,
18 the energy savings value associated with such other fuels shall
19 be converted to electric energy savings on an equivalent Btu
20 basis for the premises. However, the electric utility shall
21 prioritize programs for low-income residential customers to
22 the extent practicable. An electric utility may recover the
23 costs of offering the gas energy efficiency measures under this
24 subsection (b-25).

25 For those energy efficiency measures or programs that save
26 both electricity and other fuels but are not jointly offered

1 with a gas utility under plans approved under this Section and
2 Section 8-104 or not offered with an affiliated gas utility
3 under paragraph (6) of subsection (f) of Section 8-104 of this
4 Act, the electric utility may count savings of fuels other than
5 electricity toward the achievement of its annual savings goal,
6 and the energy savings value associated with such other fuels
7 shall be converted to electric energy savings on an equivalent
8 Btu basis at the premises.

9 In no event shall more than 10% of each year's applicable
10 annual incremental goal as defined in paragraph (7) of
11 subsection (g) of this Section be met through savings of fuels
12 other than electricity.

13 (c) Electric utilities shall be responsible for overseeing
14 the design, development, and filing of energy efficiency plans
15 with the Commission and may, as part of that implementation,
16 outsource various aspects of program development and
17 implementation. A minimum of 10%, for electric utilities that
18 serve more than 3,000,000 retail customers in the State, and a
19 minimum of 7%, for electric utilities that serve less than
20 3,000,000 retail customers but more than 500,000 retail
21 customers in the State, of the utility's entire portfolio
22 funding level for a given year shall be used to procure
23 cost-effective energy efficiency measures from units of local
24 government, municipal corporations, school districts, public
25 housing, and community college districts, provided that a
26 minimum percentage of available funds shall be used to procure

1 energy efficiency from public housing, which percentage shall
2 be equal to public housing's share of public building energy
3 consumption.

4 The utilities shall also implement energy efficiency
5 measures targeted at low-income households, which, for
6 purposes of this Section, shall be defined as households at or
7 below 80% of area median income, and expenditures to implement
8 the measures shall be no less than \$25,000,000 per year for
9 electric utilities that serve more than 3,000,000 retail
10 customers in the State and no less than \$8,350,000 per year for
11 electric utilities that serve less than 3,000,000 retail
12 customers but more than 500,000 retail customers in the State.

13 Each electric utility shall assess opportunities to
14 implement cost-effective energy efficiency measures and
15 programs through a public housing authority or authorities
16 located in its service territory. If such opportunities are
17 identified, the utility shall propose such measures and
18 programs to address the opportunities. Expenditures to address
19 such opportunities shall be credited toward the minimum
20 procurement and expenditure requirements set forth in this
21 subsection (c).

22 Implementation of energy efficiency measures and programs
23 targeted at low-income households should be contracted, when it
24 is practicable, to independent third parties that have
25 demonstrated capabilities to serve such households, with a
26 preference for not-for-profit entities and government agencies

1 that have existing relationships with or experience serving
2 low-income communities in the State.

3 Each electric utility shall develop and implement
4 reporting procedures that address and assist in determining the
5 amount of energy savings that can be applied to the low-income
6 procurement and expenditure requirements set forth in this
7 subsection (c).

8 The electric utilities shall also convene a low-income
9 energy efficiency advisory committee to assist in the design
10 and evaluation of the low-income energy efficiency programs.
11 The committee shall be comprised of the electric utilities
12 subject to the requirements of this Section, the gas utilities
13 subject to the requirements of Section 8-104 of this Act, the
14 utilities' low-income energy efficiency implementation
15 contractors, and representatives of community-based
16 organizations.

17 (d) Notwithstanding any other provision of law to the
18 contrary, a utility providing approved energy efficiency
19 measures and, if applicable, demand-response measures in the
20 State shall be permitted to recover all reasonable and
21 prudently incurred costs of those measures from all retail
22 customers, except as provided in subsection (l) of this
23 Section, as follows, provided that nothing in this subsection
24 (d) permits the double recovery of such costs from customers:

25 (1) The utility may recover its costs through an
26 automatic adjustment clause tariff filed with and approved

1 by the Commission. The tariff shall be established outside
2 the context of a general rate case. Each year the
3 Commission shall initiate a review to reconcile any amounts
4 collected with the actual costs and to determine the
5 required adjustment to the annual tariff factor to match
6 annual expenditures. To enable the financing of the
7 incremental capital expenditures, including regulatory
8 assets, for electric utilities that serve less than
9 3,000,000 retail customers but more than 500,000 retail
10 customers in the State, the utility's actual year-end
11 capital structure that includes a common equity ratio,
12 excluding goodwill, of up to and including 50% of the total
13 capital structure shall be deemed reasonable and used to
14 set rates.

15 (2) A utility may recover its costs through an energy
16 efficiency formula rate approved by the Commission under a
17 filing under subsections (f) and (g) of this Section, which
18 shall specify the cost components that form the basis of
19 the rate charged to customers with sufficient specificity
20 to operate in a standardized manner and be updated annually
21 with transparent information that reflects the utility's
22 actual costs to be recovered during the applicable rate
23 year, which is the period beginning with the first billing
24 day of January and extending through the last billing day
25 of the following December. The energy efficiency formula
26 rate shall be implemented through a tariff filed with the

1 Commission under subsections (f) and (g) of this Section
2 that is consistent with the provisions of this paragraph
3 (2) and that shall be applicable to all delivery services
4 customers. The Commission shall conduct an investigation
5 of the tariff in a manner consistent with the provisions of
6 this paragraph (2), subsections (f) and (g) of this
7 Section, and the provisions of Article IX of this Act to
8 the extent they do not conflict with this paragraph (2).
9 The energy efficiency formula rate approved by the
10 Commission shall remain in effect at the discretion of the
11 utility and shall do the following:

12 (A) Provide for the recovery of the utility's
13 actual costs incurred under this Section that are
14 prudently incurred and reasonable in amount consistent
15 with Commission practice and law. The sole fact that a
16 cost differs from that incurred in a prior calendar
17 year or that an investment is different from that made
18 in a prior calendar year shall not imply the imprudence
19 or unreasonableness of that cost or investment.

20 (B) Reflect the utility's actual year-end capital
21 structure for the applicable calendar year, excluding
22 goodwill, subject to a determination of prudence and
23 reasonableness consistent with Commission practice and
24 law. To enable the financing of the incremental capital
25 expenditures, including regulatory assets, for
26 electric utilities that serve less than 3,000,000

1 retail customers but more than 500,000 retail
2 customers in the State, a participating electric
3 utility's actual year-end capital structure that
4 includes a common equity ratio, excluding goodwill, of
5 up to and including 50% of the total capital structure
6 shall be deemed reasonable and used to set rates.

7 (C) Include a cost of equity, which shall be
8 calculated as the sum of the following:

9 (i) the average for the applicable calendar
10 year of the monthly average yields of 30-year U.S.
11 Treasury bonds published by the Board of Governors
12 of the Federal Reserve System in its weekly H.15
13 Statistical Release or successor publication; and

14 (ii) 580 basis points.

15 At such time as the Board of Governors of the
16 Federal Reserve System ceases to include the monthly
17 average yields of 30-year U.S. Treasury bonds in its
18 weekly H.15 Statistical Release or successor
19 publication, the monthly average yields of the U.S.
20 Treasury bonds then having the longest duration
21 published by the Board of Governors in its weekly H.15
22 Statistical Release or successor publication shall
23 instead be used for purposes of this paragraph (2).

24 (D) Permit and set forth protocols, subject to a
25 determination of prudence and reasonableness
26 consistent with Commission practice and law, for the

1 following:

2 (i) recovery of incentive compensation expense
3 that is based on the achievement of operational
4 metrics, including metrics related to budget
5 controls, outage duration and frequency, safety,
6 customer service, efficiency and productivity, and
7 environmental compliance; however, this protocol
8 shall not apply if such expense related to costs
9 incurred under this Section is recovered under
10 Article IX or Section 16-108.5 of this Act;
11 incentive compensation expense that is based on
12 net income or an affiliate's earnings per share
13 shall not be recoverable under the energy
14 efficiency formula rate;

15 (ii) recovery of pension and other
16 post-employment benefits expense, provided that
17 such costs are supported by an actuarial study;
18 however, this protocol shall not apply if such
19 expense related to costs incurred under this
20 Section is recovered under Article IX or Section
21 16-108.5 of this Act;

22 (iii) recovery of existing regulatory assets
23 over the periods previously authorized by the
24 Commission;

25 (iv) as described in subsection (e),
26 amortization of costs incurred under this Section;

1 and

2 (v) projected, weather normalized billing
3 determinants for the applicable rate year.

4 (E) Provide for an annual reconciliation, as
5 described in paragraph (3) of this subsection (d), less
6 any deferred taxes related to the reconciliation, with
7 interest at an annual rate of return equal to the
8 utility's weighted average cost of capital, including
9 a revenue conversion factor calculated to recover or
10 refund all additional income taxes that may be payable
11 or receivable as a result of that return, of the energy
12 efficiency revenue requirement reflected in rates for
13 each calendar year, beginning with the calendar year in
14 which the utility files its energy efficiency formula
15 rate tariff under this paragraph (2), with what the
16 revenue requirement would have been had the actual cost
17 information for the applicable calendar year been
18 available at the filing date.

19 The utility shall file, together with its tariff, the
20 projected costs to be incurred by the utility during the
21 rate year under the utility's multi-year plan approved
22 under subsections (f) and (g) of this Section, including,
23 but not limited to, the projected capital investment costs
24 and projected regulatory asset balances with
25 correspondingly updated depreciation and amortization
26 reserves and expense, that shall populate the energy

1 efficiency formula rate and set the initial rates under the
2 formula.

3 The Commission shall review the proposed tariff in
4 conjunction with its review of a proposed multi-year plan,
5 as specified in paragraph (5) of subsection (g) of this
6 Section. The review shall be based on the same evidentiary
7 standards, including, but not limited to, those concerning
8 the prudence and reasonableness of the costs incurred by
9 the utility, the Commission applies in a hearing to review
10 a filing for a general increase in rates under Article IX
11 of this Act. The initial rates shall take effect beginning
12 with the January monthly billing period following the
13 Commission's approval.

14 The tariff's rate design and cost allocation across
15 customer classes shall be consistent with the utility's
16 automatic adjustment clause tariff in effect on the
17 effective date of this amendatory Act of the 99th General
18 Assembly; however, the Commission may revise the tariff's
19 rate design and cost allocation in subsequent proceedings
20 under paragraph (3) of this subsection (d).

21 If the energy efficiency formula rate is terminated,
22 the then current rates shall remain in effect until such
23 time as the energy efficiency costs are incorporated into
24 new rates that are set under this subsection (d) or Article
25 IX of this Act, subject to retroactive rate adjustment,
26 with interest, to reconcile rates charged with actual

1 costs.

2 (3) The provisions of this paragraph (3) shall only
3 apply to an electric utility that has elected to file an
4 energy efficiency formula rate under paragraph (2) of this
5 subsection (d). Subsequent to the Commission's issuance of
6 an order approving the utility's energy efficiency formula
7 rate structure and protocols, and initial rates under
8 paragraph (2) of this subsection (d), the utility shall
9 file, on or before June 1 of each year, with the Chief
10 Clerk of the Commission its updated cost inputs to the
11 energy efficiency formula rate for the applicable rate year
12 and the corresponding new charges, as well as the
13 information described in paragraph (9) of subsection (g) of
14 this Section. Each such filing shall conform to the
15 following requirements and include the following
16 information:

17 (A) The inputs to the energy efficiency formula
18 rate for the applicable rate year shall be based on the
19 projected costs to be incurred by the utility during
20 the rate year under the utility's multi-year plan
21 approved under subsections (f) and (g) of this Section,
22 including, but not limited to, projected capital
23 investment costs and projected regulatory asset
24 balances with correspondingly updated depreciation and
25 amortization reserves and expense. The filing shall
26 also include a reconciliation of the energy efficiency

1 revenue requirement that was in effect for the prior
2 rate year (as set by the cost inputs for the prior rate
3 year) with the actual revenue requirement for the prior
4 rate year (determined using a year-end rate base) that
5 uses amounts reflected in the applicable FERC Form 1
6 that reports the actual costs for the prior rate year.
7 Any over-collection or under-collection indicated by
8 such reconciliation shall be reflected as a credit
9 against, or recovered as an additional charge to,
10 respectively, with interest calculated at a rate equal
11 to the utility's weighted average cost of capital
12 approved by the Commission for the prior rate year, the
13 charges for the applicable rate year. Such
14 over-collection or under-collection shall be adjusted
15 to remove any deferred taxes related to the
16 reconciliation, for purposes of calculating interest
17 at an annual rate of return equal to the utility's
18 weighted average cost of capital approved by the
19 Commission for the prior rate year, including a revenue
20 conversion factor calculated to recover or refund all
21 additional income taxes that may be payable or
22 receivable as a result of that return. Each
23 reconciliation shall be certified by the participating
24 utility in the same manner that FERC Form 1 is
25 certified. The filing shall also include the charge or
26 credit, if any, resulting from the calculation

1 required by subparagraph (E) of paragraph (2) of this
2 subsection (d).

3 Notwithstanding any other provision of law to the
4 contrary, the intent of the reconciliation is to
5 ultimately reconcile both the revenue requirement
6 reflected in rates for each calendar year, beginning
7 with the calendar year in which the utility files its
8 energy efficiency formula rate tariff under paragraph
9 (2) of this subsection (d), with what the revenue
10 requirement determined using a year-end rate base for
11 the applicable calendar year would have been had the
12 actual cost information for the applicable calendar
13 year been available at the filing date.

14 For purposes of this Section, "FERC Form 1" means
15 the Annual Report of Major Electric Utilities,
16 Licensees and Others that electric utilities are
17 required to file with the Federal Energy Regulatory
18 Commission under the Federal Power Act, Sections 3,
19 4(a), 304 and 209, modified as necessary to be
20 consistent with 83 Ill. Admin. Code Part 415 as of May
21 1, 2011. Nothing in this Section is intended to allow
22 costs that are not otherwise recoverable to be
23 recoverable by virtue of inclusion in FERC Form 1.

24 (B) The new charges shall take effect beginning on
25 the first billing day of the following January billing
26 period and remain in effect through the last billing

1 day of the next December billing period regardless of
2 whether the Commission enters upon a hearing under this
3 paragraph (3).

4 (C) The filing shall include relevant and
5 necessary data and documentation for the applicable
6 rate year. Normalization adjustments shall not be
7 required.

8 Within 45 days after the utility files its annual
9 update of cost inputs to the energy efficiency formula
10 rate, the Commission shall with reasonable notice,
11 initiate a proceeding concerning whether the projected
12 costs to be incurred by the utility and recovered during
13 the applicable rate year, and that are reflected in the
14 inputs to the energy efficiency formula rate, are
15 consistent with the utility's approved multi-year plan
16 under subsections (f) and (g) of this Section and whether
17 the costs incurred by the utility during the prior rate
18 year were prudent and reasonable. The Commission shall also
19 have the authority to investigate the information and data
20 described in paragraph (9) of subsection (g) of this
21 Section, including the proposed adjustment to the
22 utility's return on equity component of its weighted
23 average cost of capital. During the course of the
24 proceeding, each objection shall be stated with
25 particularity and evidence provided in support thereof,
26 after which the utility shall have the opportunity to rebut

1 the evidence. Discovery shall be allowed consistent with
2 the Commission's Rules of Practice, which Rules of Practice
3 shall be enforced by the Commission or the assigned hearing
4 examiner. The Commission shall apply the same evidentiary
5 standards, including, but not limited to, those concerning
6 the prudence and reasonableness of the costs incurred by
7 the utility, during the proceeding as it would apply in a
8 proceeding to review a filing for a general increase in
9 rates under Article IX of this Act. The Commission shall
10 not, however, have the authority in a proceeding under this
11 paragraph (3) to consider or order any changes to the
12 structure or protocols of the energy efficiency formula
13 rate approved under paragraph (2) of this subsection (d).
14 In a proceeding under this paragraph (3), the Commission
15 shall enter its order no later than the earlier of 195 days
16 after the utility's filing of its annual update of cost
17 inputs to the energy efficiency formula rate or December
18 15. The utility's proposed return on equity calculation, as
19 described in paragraphs (7) through (9) of subsection (g)
20 of this Section, shall be deemed the final, approved
21 calculation on December 15 of the year in which it is filed
22 unless the Commission enters an order on or before December
23 15, after notice and hearing, that modifies such
24 calculation consistent with this Section. The Commission's
25 determinations of the prudence and reasonableness of the
26 costs incurred, and determination of such return on equity

1 calculation, for the applicable calendar year shall be
2 final upon entry of the Commission's order and shall not be
3 subject to reopening, reexamination, or collateral attack
4 in any other Commission proceeding, case, docket, order,
5 rule, or regulation; however, nothing in this paragraph (3)
6 shall prohibit a party from petitioning the Commission to
7 rehear or appeal to the courts the order under the
8 provisions of this Act.

9 (e) Beginning on the effective date of this amendatory Act
10 of the 99th General Assembly, a utility subject to the
11 requirements of this Section may elect to defer, as a
12 regulatory asset, up to the full amount of its expenditures
13 incurred under this Section for each annual period, including,
14 but not limited to, any expenditures incurred above the funding
15 level set by subsection (f) of this Section for a given year.
16 The total expenditures deferred as a regulatory asset in a
17 given year shall be amortized and recovered over a period that
18 is equal to the weighted average of the energy efficiency
19 measure lives implemented for that year that are reflected in
20 the regulatory asset. The unamortized balance shall be
21 recognized as of December 31 for a given year. The utility
22 shall also earn a return on the total of the unamortized
23 balances of all of the energy efficiency regulatory assets,
24 less any deferred taxes related to those unamortized balances,
25 at an annual rate equal to the utility's weighted average cost
26 of capital that includes, based on a year-end capital

1 structure, the utility's actual cost of debt for the applicable
2 calendar year and a cost of equity, which shall be calculated
3 as the sum of the (i) the average for the applicable calendar
4 year of the monthly average yields of 30-year U.S. Treasury
5 bonds published by the Board of Governors of the Federal
6 Reserve System in its weekly H.15 Statistical Release or
7 successor publication; and (ii) 580 basis points, including a
8 revenue conversion factor calculated to recover or refund all
9 additional income taxes that may be payable or receivable as a
10 result of that return. Capital investment costs shall be
11 depreciated and recovered over their useful lives consistent
12 with generally accepted accounting principles. The weighted
13 average cost of capital shall be applied to the capital
14 investment cost balance, less any accumulated depreciation and
15 accumulated deferred income taxes, as of December 31 for a
16 given year.

17 When an electric utility creates a regulatory asset under
18 the provisions of this Section, the costs are recovered over a
19 period during which customers also receive a benefit which is
20 in the public interest. Accordingly, it is the intent of the
21 General Assembly that an electric utility that elects to create
22 a regulatory asset under the provisions of this Section shall
23 recover all of the associated costs as set forth in this
24 Section. After the Commission has approved the prudence and
25 reasonableness of the costs that comprise the regulatory asset,
26 the electric utility shall be permitted to recover all such

1 costs, and the value and recoverability through rates of the
2 associated regulatory asset shall not be limited, altered,
3 impaired, or reduced.

4 (f) Beginning in 2017, each electric utility shall file an
5 energy efficiency plan with the Commission to meet the energy
6 efficiency standards for the next applicable multi-year period
7 beginning January 1 of the year following the filing, according
8 to the schedule set forth in paragraphs (1) through (3) of this
9 subsection (f). If a utility does not file such a plan on or
10 before the applicable filing deadline for the plan, it shall
11 face a penalty of \$100,000 per day until the plan is filed.

12 (1) No later than 30 days after the effective date of
13 this amendatory Act of the 99th General Assembly or May 1,
14 2017, whichever is later, each electric utility shall file
15 a 4-year energy efficiency plan commencing on January 1,
16 2018 that is designed to achieve the cumulative persisting
17 annual savings goals specified in paragraphs (1) through
18 (4) of subsection (b-5) of this Section or in paragraphs
19 (1) through (4) of subsection (b-15) of this Section, as
20 applicable, through implementation of energy efficiency
21 measures; however, the goals may be reduced if the
22 utility's expenditures are limited pursuant to subsection
23 (m) of this Section or, for a utility that serves less than
24 3,000,000 retail customers, if each of the following
25 conditions are met: (A) the plan's analysis and forecasts
26 of the utility's ability to acquire energy savings

1 demonstrate that achievement of such goals is not cost
2 effective; and (B) the amount of energy savings achieved by
3 the utility as determined by the independent evaluator for
4 the most recent year for which savings have been evaluated
5 preceding the plan filing was less than the average annual
6 amount of savings required to achieve the goals for the
7 applicable 4-year plan period. Except as provided in
8 subsection (m) of this Section, annual increases in
9 cumulative persisting annual savings goals during the
10 applicable 4-year plan period shall not be reduced to
11 amounts that are less than the maximum amount of cumulative
12 persisting annual savings that is forecast to be
13 cost-effectively achievable during the 4-year plan period.
14 The Commission shall review any proposed goal reduction as
15 part of its review and approval of the utility's proposed
16 plan.

17 (2) No later than March 1, 2021, each electric utility
18 shall file a 4-year energy efficiency plan commencing on
19 January 1, 2022 that is designed to achieve the cumulative
20 persisting annual savings goals specified in paragraphs
21 (5) through (8) of subsection (b-5) of this Section or in
22 paragraphs (5) through (8) of subsection (b-15) of this
23 Section, as applicable, through implementation of energy
24 efficiency measures; however, the goals may be reduced if
25 the utility's expenditures are limited pursuant to
26 subsection (m) of this Section or, each of the following

1 conditions are met: (A) the plan's analysis and forecasts
2 of the utility's ability to acquire energy savings
3 demonstrate that achievement of such goals is not cost
4 effective; and (B) the amount of energy savings achieved by
5 the utility as determined by the independent evaluator for
6 the most recent year for which savings have been evaluated
7 preceding the plan filing was less than the average annual
8 amount of savings required to achieve the goals for the
9 applicable 4-year plan period. Except as provided in
10 subsection (m) of this Section, annual increases in
11 cumulative persisting annual savings goals during the
12 applicable 4-year plan period shall not be reduced to
13 amounts that are less than the maximum amount of cumulative
14 persisting annual savings that is forecast to be
15 cost-effectively achievable during the 4-year plan period.
16 The Commission shall review any proposed goal reduction as
17 part of its review and approval of the utility's proposed
18 plan.

19 (3) No later than March 1, 2025, each electric utility
20 shall file a 5-year energy efficiency plan commencing on
21 January 1, 2026 that is designed to achieve the cumulative
22 persisting annual savings goals specified in paragraphs
23 (9) through (13) of subsection (b-5) of this Section or in
24 paragraphs (9) through (13) of subsection (b-15) of this
25 Section, as applicable, through implementation of energy
26 efficiency measures; however, the goals may be reduced if

1 the utility's expenditures are limited pursuant to
2 subsection (m) of this Section or, each of the following
3 conditions are met: (A) the plan's analysis and forecasts
4 of the utility's ability to acquire energy savings
5 demonstrate that achievement of such goals is not cost
6 effective; and (B) the amount of energy savings achieved by
7 the utility as determined by the independent evaluator for
8 the most recent year for which savings have been evaluated
9 preceding the plan filing was less than the average annual
10 amount of savings required to achieve the goals for the
11 applicable 5-year plan period. Except as provided in
12 subsection (m) of this Section, annual increases in
13 cumulative persisting annual savings goals during the
14 applicable 5-year plan period shall not be reduced to
15 amounts that are less than the maximum amount of cumulative
16 persisting annual savings that is forecast to be
17 cost-effectively achievable during the 5-year plan period.
18 The Commission shall review any proposed goal reduction as
19 part of its review and approval of the utility's proposed
20 plan.

21 Each utility's plan shall set forth the utility's proposals
22 to meet the energy efficiency standards identified in
23 subsection (b-5) or (b-15), as applicable and as such standards
24 may have been modified under this subsection (f), taking into
25 account the unique circumstances of the utility's service
26 territory. For those plans commencing on January 1, 2018, the

1 Commission shall seek public comment on the utility's plan and
2 shall issue an order approving or disapproving each plan no
3 later than August 31, 2017, or 105 days after the effective
4 date of this amendatory Act of the 99th General Assembly,
5 whichever is later. For those plans commencing after December
6 31, 2021, the Commission shall seek public comment on the
7 utility's plan and shall issue an order approving or
8 disapproving each plan within 6 months after its submission. If
9 the Commission disapproves a plan, the Commission shall, within
10 30 days, describe in detail the reasons for the disapproval and
11 describe a path by which the utility may file a revised draft
12 of the plan to address the Commission's concerns
13 satisfactorily. If the utility does not refile with the
14 Commission within 60 days, the utility shall be subject to
15 penalties at a rate of \$100,000 per day until the plan is
16 filed. This process shall continue, and penalties shall accrue,
17 until the utility has successfully filed a portfolio of energy
18 efficiency and demand-response measures. Penalties shall be
19 deposited into the Energy Efficiency Trust Fund.

20 (g) In submitting proposed plans and funding levels under
21 subsection (f) of this Section to meet the savings goals
22 identified in subsection (b-5) or (b-15) of this Section, as
23 applicable, the utility shall:

24 (1) Demonstrate that its proposed energy efficiency
25 measures will achieve the applicable requirements that are
26 identified in subsection (b-5) or (b-15) of this Section,

1 as modified by subsection (f) of this Section.

2 (2) Present specific proposals to implement new
3 building and appliance standards that have been placed into
4 effect.

5 (3) Demonstrate that its overall portfolio of
6 measures, not including low-income programs described in
7 subsection (c) of this Section, is cost-effective using the
8 total resource cost test or complies with paragraphs (1)
9 through (3) of subsection (f) of this Section and
10 represents a diverse cross-section of opportunities for
11 customers of all rate classes, other than those customers
12 described in subsection (1) of this Section, to participate
13 in the programs. Individual measures need not be cost
14 effective.

15 (4) Present a third-party energy efficiency
16 implementation program subject to the following
17 requirements:

18 (A) beginning with the year commencing January 1,
19 2019, electric utilities that serve more than
20 3,000,000 retail customers in the State shall fund
21 third-party energy efficiency programs in an amount
22 that is no less than \$25,000,000 per year, and electric
23 utilities that serve less than 3,000,000 retail
24 customers but more than 500,000 retail customers in the
25 State shall fund third-party energy efficiency
26 programs in an amount that is no less than \$8,350,000

1 per year;

2 (B) during 2018, the utility shall conduct a
3 solicitation process for purposes of requesting
4 proposals from third-party vendors for those
5 third-party energy efficiency programs to be offered
6 during one or more of the years commencing January 1,
7 2019, January 1, 2020, and January 1, 2021; for those
8 multi-year plans commencing on January 1, 2022 and
9 January 1, 2026, the utility shall conduct a
10 solicitation process during 2021 and 2025,
11 respectively, for purposes of requesting proposals
12 from third-party vendors for those third-party energy
13 efficiency programs to be offered during one or more
14 years of the respective multi-year plan period; for
15 each solicitation process, the utility shall identify
16 the sector, technology, or geographical area for which
17 it is seeking requests for proposals;

18 (C) the utility shall propose the bidder
19 qualifications, performance measurement process, and
20 contract structure, which must include a performance
21 payment mechanism and general terms and conditions;
22 the proposed qualifications, process, and structure
23 shall be subject to Commission approval; and

24 (D) the utility shall retain an independent third
25 party to score the proposals received through the
26 solicitation process described in this paragraph (4),

1 rank them according to their cost per lifetime
2 kilowatt-hours saved, and assemble the portfolio of
3 third-party programs.

4 The electric utility shall recover all costs
5 associated with Commission-approved, third-party
6 administered programs regardless of the success of those
7 programs.

8 (4.5) Implement cost-effective demand-response measures
9 to reduce peak demand by 0.1% over the prior year for
10 eligible retail customers, as defined in Section 16-111.5
11 of this Act, and for customers that elect hourly service
12 from the utility pursuant to Section 16-107 of this Act,
13 provided those customers have not been declared
14 competitive. This requirement continues until December 31,
15 2026.

16 (5) Include a proposed or revised cost-recovery tariff
17 mechanism, as provided for under subsection (d) of this
18 Section, to fund the proposed energy efficiency and
19 demand-response measures and to ensure the recovery of the
20 prudently and reasonably incurred costs of
21 Commission-approved programs.

22 (6) Provide for an annual independent evaluation of the
23 performance of the cost-effectiveness of the utility's
24 portfolio of measures, as well as a full review of the
25 multi-year plan results of the broader net program impacts
26 and, to the extent practical, for adjustment of the

1 measures on a going-forward basis as a result of the
2 evaluations. The resources dedicated to evaluation shall
3 not exceed 3% of portfolio resources in any given year.

4 (7) For electric utilities that serve more than
5 3,000,000 retail customers in the State:

6 (A) Through December 31, 2025, provide for an
7 adjustment to the return on equity component of the
8 utility's weighted average cost of capital calculated
9 under subsection (d) of this Section:

10 (i) If the independent evaluator determines
11 that the utility achieved a cumulative persisting
12 annual savings that is less than the applicable
13 annual incremental goal, then the return on equity
14 component shall be reduced by a maximum of 200
15 basis points in the event that the utility achieved
16 no more than 75% of such goal. If the utility
17 achieved more than 75% of the applicable annual
18 incremental goal but less than 100% of such goal,
19 then the return on equity component shall be
20 reduced by 8 basis points for each percent by which
21 the utility failed to achieve the goal.

22 (ii) If the independent evaluator determines
23 that the utility achieved a cumulative persisting
24 annual savings that is more than the applicable
25 annual incremental goal, then the return on equity
26 component shall be increased by a maximum of 200

1 basis points in the event that the utility achieved
2 at least 125% of such goal. If the utility achieved
3 more than 100% of the applicable annual
4 incremental goal but less than 125% of such goal,
5 then the return on equity component shall be
6 increased by 8 basis points for each percent by
7 which the utility achieved above the goal. If the
8 applicable annual incremental goal was reduced
9 under paragraphs (1) or (2) of subsection (f) of
10 this Section, then the following adjustments shall
11 be made to the calculations described in this item
12 (ii):

13 (aa) the calculation for determining
14 achievement that is at least 125% of the
15 applicable annual incremental goal shall use
16 the unreduced applicable annual incremental
17 goal to set the value; and

18 (bb) the calculation for determining
19 achievement that is less than 125% but more
20 than 100% of the applicable annual incremental
21 goal shall use the reduced applicable annual
22 incremental goal to set the value for 100%
23 achievement of the goal and shall use the
24 unreduced goal to set the value for 125%
25 achievement. The 8 basis point value shall also
26 be modified, as necessary, so that the 200

1 basis points are evenly apportioned among each
2 percentage point value between 100% and 125%
3 achievement.

4 (B) For the period January 1, 2026 through December
5 31, 2030, provide for an adjustment to the return on
6 equity component of the utility's weighted average
7 cost of capital calculated under subsection (d) of this
8 Section:

9 (i) If the independent evaluator determines
10 that the utility achieved a cumulative persisting
11 annual savings that is less than the applicable
12 annual incremental goal, then the return on equity
13 component shall be reduced by a maximum of 200
14 basis points in the event that the utility achieved
15 no more than 66% of such goal. If the utility
16 achieved more than 66% of the applicable annual
17 incremental goal but less than 100% of such goal,
18 then the return on equity component shall be
19 reduced by 6 basis points for each percent by which
20 the utility failed to achieve the goal.

21 (ii) If the independent evaluator determines
22 that the utility achieved a cumulative persisting
23 annual savings that is more than the applicable
24 annual incremental goal, then the return on equity
25 component shall be increased by a maximum of 200
26 basis points in the event that the utility achieved

1 at least 134% of such goal. If the utility achieved
2 more than 100% of the applicable annual
3 incremental goal but less than 134% of such goal,
4 then the return on equity component shall be
5 increased by 6 basis points for each percent by
6 which the utility achieved above the goal. If the
7 applicable annual incremental goal was reduced
8 under paragraph (3) of subsection (f) of this
9 Section, then the following adjustments shall be
10 made to the calculations described in this item
11 (ii):

12 (aa) the calculation for determining
13 achievement that is at least 134% of the
14 applicable annual incremental goal shall use
15 the unreduced applicable annual incremental
16 goal to set the value; and

17 (bb) the calculation for determining
18 achievement that is less than 134% but more
19 than 100% of the applicable annual incremental
20 goal shall use the reduced applicable annual
21 incremental goal to set the value for 100%
22 achievement of the goal and shall use the
23 unreduced goal to set the value for 134%
24 achievement. The 6 basis point value shall also
25 be modified, as necessary, so that the 200
26 basis points are evenly apportioned among each

1 percentage point value between 100% and 134%
2 achievement.

3 (7.5) For purposes of this Section, the term
4 "applicable annual incremental goal" means the difference
5 between the cumulative persisting annual savings goal for
6 the calendar year that is the subject of the independent
7 evaluator's determination and the cumulative persisting
8 annual savings goal for the immediately preceding calendar
9 year, as such goals are defined in subsections (b-5) and
10 (b-15) of this Section and as these goals may have been
11 modified as provided for under subsection (b-20) and
12 paragraphs (1) through (3) of subsection (f) of this
13 Section. Under subsections (b), (b-5), (b-10), and (b-15)
14 of this Section, a utility must first replace energy
15 savings from measures that have reached the end of their
16 measure lives and would otherwise have to be replaced to
17 meet the applicable savings goals identified in subsection
18 (b-5) or (b-15) of this Section before any progress towards
19 achievement of its applicable annual incremental goal may
20 be counted. Notwithstanding anything else set forth in this
21 Section, the difference between the actual annual
22 incremental savings achieved in any given year, including
23 the replacement of energy savings from measures that have
24 expired, and the applicable annual incremental goal shall
25 not affect adjustments to the return on equity for
26 subsequent calendar years under this subsection (g).

1 (8) For electric utilities that serve less than
2 3,000,000 retail customers but more than 500,000 retail
3 customers in the State:

4 (A) Through December 31, 2025, the applicable
5 annual incremental goal shall be compared to the annual
6 incremental savings as determined by the independent
7 evaluator.

8 (i) The return on equity component shall be
9 reduced by 8 basis points for each percent by which
10 the utility did not achieve 84.4% of the applicable
11 annual incremental goal.

12 (ii) The return on equity component shall be
13 increased by 8 basis points for each percent by
14 which the utility exceeded 100% of the applicable
15 annual incremental goal.

16 (iii) The return on equity component shall not
17 be increased or decreased if the annual
18 incremental savings as determined by the
19 independent evaluator is greater than 84.4% of the
20 applicable annual incremental goal and less than
21 100% of the applicable annual incremental goal.

22 (iv) The return on equity component shall not
23 be increased or decreased by an amount greater than
24 200 basis points pursuant to this subparagraph
25 (A).

26 (B) For the period of January 1, 2026 through

1 December 31, 2030, the applicable annual incremental
2 goal shall be compared to the annual incremental
3 savings as determined by the independent evaluator.

4 (i) The return on equity component shall be
5 reduced by 6 basis points for each percent by which
6 the utility did not achieve 100% of the applicable
7 annual incremental goal.

8 (ii) The return on equity component shall be
9 increased by 6 basis points for each percent by
10 which the utility exceeded 100% of the applicable
11 annual incremental goal.

12 (iii) The return on equity component shall not
13 be increased or decreased by an amount greater than
14 200 basis points pursuant to this subparagraph
15 (B).

16 (C) If the applicable annual incremental goal was
17 reduced under paragraphs (1), (2) or (3) of subsection
18 (f) of this Section, then the following adjustments
19 shall be made to the calculations described in
20 subparagraphs (A) and (B) of this paragraph (8):

21 (i) The calculation for determining
22 achievement that is at least 125% or 134%, as
23 applicable, of the applicable annual incremental
24 goal shall use the unreduced applicable annual
25 incremental goal to set the value.

26 (ii) For the period through December 31, 2025,

1 the calculation for determining achievement that
2 is less than 125% but more than 100% of the
3 applicable annual incremental goal shall use the
4 reduced applicable annual incremental goal to set
5 the value for 100% achievement of the goal and
6 shall use the unreduced goal to set the value for
7 125% achievement. The 8 basis point value shall
8 also be modified, as necessary, so that the 200
9 basis points are evenly apportioned among each
10 percentage point value between 100% and 125%
11 achievement.

12 (iii) For the period of January 1, 2026 through
13 December 31, 2030, the calculation for determining
14 achievement that is less than 134% but more than
15 100% of the applicable annual incremental goal
16 shall use the reduced applicable annual
17 incremental goal to set the value for 100%
18 achievement of the goal and shall use the unreduced
19 goal to set the value for 125% achievement. The 6
20 basis point value shall also be modified, as
21 necessary, so that the 200 basis points are evenly
22 apportioned among each percentage point value
23 between 100% and 134% achievement.

24 (9) The utility shall submit the energy savings data to
25 the independent evaluator no later than 30 days after the
26 close of the plan year. The independent evaluator shall

1 determine the cumulative persisting annual savings for a
2 given plan year no later than 120 days after the close of
3 the plan year. The utility shall submit an informational
4 filing to the Commission no later than 160 days after the
5 close of the plan year that attaches the independent
6 evaluator's final report identifying the cumulative
7 persisting annual savings for the year and calculates,
8 under paragraph (7) or (8) of this subsection (g), as
9 applicable, any resulting change to the utility's return on
10 equity component of the weighted average cost of capital
11 applicable to the next plan year beginning with the January
12 monthly billing period and extending through the December
13 monthly billing period. However, if the utility recovers
14 the costs incurred under this Section under paragraphs (2)
15 and (3) of subsection (d) of this Section, then the utility
16 shall not be required to submit such informational filing,
17 and shall instead submit the information that would
18 otherwise be included in the informational filing as part
19 of its filing under paragraph (3) of such subsection (d)
20 that is due on or before June 1 of each year.

21 For those utilities that must submit the informational
22 filing, the Commission may, on its own motion or by
23 petition, initiate an investigation of such filing,
24 provided, however, that the utility's proposed return on
25 equity calculation shall be deemed the final, approved
26 calculation on December 15 of the year in which it is filed

1 unless the Commission enters an order on or before December
2 15, after notice and hearing, that modifies such
3 calculation consistent with this Section.

4 The adjustments to the return on equity component
5 described in paragraphs (7) and (8) of this subsection (g)
6 shall be applied as described in such paragraphs through a
7 separate tariff mechanism, which shall be filed by the
8 utility under subsections (f) and (g) of this Section.

9 (h) No more than 6% of energy efficiency and
10 demand-response program revenue may be allocated for research,
11 development, or pilot deployment of new equipment or measures.

12 (i) When practicable, electric utilities shall incorporate
13 advanced metering infrastructure data into the planning,
14 implementation, and evaluation of energy efficiency measures
15 and programs, subject to the data privacy and confidentiality
16 protections of applicable law.

17 (j) The independent evaluator shall follow the guidelines
18 and use the savings set forth in Commission-approved energy
19 efficiency policy manuals and technical reference manuals, as
20 each may be updated from time to time. Until such time as
21 measure life values for energy efficiency measures implemented
22 for low-income households under subsection (c) of this Section
23 are incorporated into such Commission-approved manuals, the
24 low-income measures shall have the same measure life values
25 that are established for same measures implemented in
26 households that are not low-income households.

1 (k) Notwithstanding any provision of law to the contrary,
2 an electric utility subject to the requirements of this Section
3 may file a tariff cancelling an automatic adjustment clause
4 tariff in effect under this Section or Section 8-103, which
5 shall take effect no later than one business day after the date
6 such tariff is filed. Thereafter, the utility shall be
7 authorized to defer and recover its expenditures incurred under
8 this Section through a new tariff authorized under subsection
9 (d) of this Section or in the utility's next rate case under
10 Article IX or Section 16-108.5 of this Act, with interest at an
11 annual rate equal to the utility's weighted average cost of
12 capital as approved by the Commission in such case. If the
13 utility elects to file a new tariff under subsection (d) of
14 this Section, the utility may file the tariff within 10 days
15 after the effective date of this amendatory Act of the 99th
16 General Assembly, and the cost inputs to such tariff shall be
17 based on the projected costs to be incurred by the utility
18 during the calendar year in which the new tariff is filed and
19 that were not recovered under the tariff that was cancelled as
20 provided for in this subsection. Such costs shall include those
21 incurred or to be incurred by the utility under its multi-year
22 plan approved under subsections (f) and (g) of this Section,
23 including, but not limited to, projected capital investment
24 costs and projected regulatory asset balances with
25 correspondingly updated depreciation and amortization reserves
26 and expense. The Commission shall, after notice and hearing,

1 approve, or approve with modification, such tariff and cost
2 inputs no later than 75 days after the utility filed the
3 tariff, provided that such approval, or approval with
4 modification, shall be consistent with the provisions of this
5 Section to the extent they do not conflict with this subsection
6 (k). The tariff approved by the Commission shall take effect no
7 later than 5 days after the Commission enters its order
8 approving the tariff.

9 No later than 60 days after the effective date of the
10 tariff cancelling the utility's automatic adjustment clause
11 tariff, the utility shall file a reconciliation that reconciles
12 the moneys collected under its automatic adjustment clause
13 tariff with the costs incurred during the period beginning June
14 1, 2016 and ending on the date that the electric utility's
15 automatic adjustment clause tariff was cancelled. In the event
16 the reconciliation reflects an under-collection, the utility
17 shall recover the costs as specified in this subsection (k). If
18 the reconciliation reflects an over-collection, the utility
19 shall apply the amount of such over-collection as a one-time
20 credit to retail customers' bills.

21 (l) For the calendar years covered by a multi-year plan
22 commencing after December 31, 2017, subsections (a) through (j)
23 of this Section do not apply to any retail customers of an
24 electric utility that serves more than 3,000,000 retail
25 customers in the State and whose total highest 30 minute demand
26 was more than 10,000 kilowatts, or any retail customers of an

1 electric utility that serves less than 3,000,000 retail
2 customers but more than 500,000 retail customers in the State
3 and whose total highest 15 minute demand was more than 10,000
4 kilowatts. For purposes of this subsection (1), "retail
5 customer" has the meaning set forth in Section 16-102 of this
6 Act. A determination of whether this subsection is applicable
7 to a customer shall be made for each multi-year plan beginning
8 after December 31, 2017. The criteria for determining whether
9 this subsection (1) is applicable to a retail customer shall be
10 based on the 12 consecutive billing periods prior to the start
11 of the first year of each such multi-year plan.

12 (m) Notwithstanding the requirements of this Section, as
13 part of a proceeding to approve a multi-year plan under
14 subsections (f) and (g) of this Section, the Commission shall
15 reduce the amount of energy efficiency measures implemented for
16 any single year, and whose costs are recovered under subsection
17 (d) of this Section, by an amount necessary to limit the
18 estimated average net increase due to the cost of the measures
19 to no more than

20 (1) 3.5% for the each of the 4 years beginning January
21 1, 2018,
22 (2) 3.75% for each of the 4 years beginning January 1,
23 2022, and
24 (3) 4% for each of the 5 years beginning January 1,
25 2026,
26 of the average amount paid per kilowatthour by residential

1 eligible retail customers during calendar year 2015. To
2 determine the total amount that may be spent by an electric
3 utility in any single year, the applicable percentage of the
4 average amount paid per kilowatthour shall be multiplied by the
5 total amount of energy delivered by such electric utility in
6 the calendar year 2015, adjusted to reflect the proportion of
7 the utility's load attributable to customers who are exempt
8 from subsections (a) through (j) of this Section under
9 subsection (l) of this Section. For purposes of this subsection
10 (m), the amount paid per kilowatthour includes, without
11 limitation, estimated amounts paid for supply, transmission,
12 distribution, surcharges, and add-on taxes. For purposes of
13 this Section, "eligible retail customers" shall have the
14 meaning set forth in Section 16-111.5 of this Act. Once the
15 Commission has approved a plan under subsections (f) and (g) of
16 this Section, no subsequent rate impact determinations shall be
17 made.

18 (220 ILCS 5/8-104)

19 Sec. 8-104. Natural gas energy efficiency programs.

20 (a) It is the policy of the State that natural gas
21 utilities and the Department of Commerce and Economic
22 Opportunity are required to use cost-effective energy
23 efficiency to reduce direct and indirect costs to consumers. It
24 serves the public interest to allow natural gas utilities to
25 recover costs for reasonably and prudently incurred expenses

1 for cost-effective energy efficiency measures.

2 (b) For purposes of this Section, "energy efficiency" means
3 measures that reduce the amount of energy required to achieve a
4 given end use. "Energy efficiency" also includes measures that
5 reduce the total Btus of electricity and natural gas needed to
6 meet the end use or uses. "Cost-effective" means that the
7 measures satisfy the total resource cost test which, for
8 purposes of this Section, means a standard that is met if, for
9 an investment in energy efficiency, the benefit-cost ratio is
10 greater than one. The benefit-cost ratio is the ratio of the
11 net present value of the total benefits of the measures to the
12 net present value of the total costs as calculated over the
13 lifetime of the measures. The total resource cost test compares
14 the sum of avoided natural gas utility costs, representing the
15 benefits that accrue to the system and the participant in the
16 delivery of those efficiency measures, as well as other
17 quantifiable societal benefits, including avoided electric
18 utility costs, to the sum of all incremental costs of end use
19 measures (including both utility and participant
20 contributions), plus costs to administer, deliver, and
21 evaluate each demand-side measure, to quantify the net savings
22 obtained by substituting demand-side measures for supply
23 resources. In calculating avoided costs, reasonable estimates
24 shall be included for financial costs likely to be imposed by
25 future regulation of emissions of greenhouse gases. The
26 low-income programs described in item (4) of subsection (f) of

1 this Section shall not be required to meet the total resource
2 cost test.

3 (c) Natural gas utilities shall implement cost-effective
4 energy efficiency measures to meet at least the following
5 natural gas savings requirements, which shall be based upon the
6 total amount of gas delivered to retail customers, other than
7 the customers described in subsection (m) of this Section,
8 during calendar year 2009 multiplied by the applicable
9 percentage. Natural gas utilities may comply with this Section
10 by meeting the annual incremental savings goal in the
11 applicable year or by showing that total cumulative annual
12 savings within a multi-year ~~3-year~~ planning period associated
13 with measures implemented after May 31, 2011 were equal to the
14 sum of each annual incremental savings requirement from the
15 first day of the multi-year planning period ~~May 31, 2011~~
16 through the last day of the multi-year planning period ~~end of~~
17 ~~the applicable year:~~

18 (1) 0.2% by May 31, 2012;

19 (2) an additional 0.4% by May 31, 2013, increasing
20 total savings to .6%;

21 (3) an additional 0.6% by May 31, 2014, increasing
22 total savings to 1.2%;

23 (4) an additional 0.8% by May 31, 2015, increasing
24 total savings to 2.0%;

25 (5) an additional 1% by May 31, 2016, increasing total
26 savings to 3.0%;

1 (6) an additional 1.2% by May 31, 2017, increasing
2 total savings to 4.2%;

3 (7) an additional 1.4% in the year commencing January
4 1, 2018 ~~by May 31, 2018, increasing total savings to 5.6%;~~

5 (8) an additional 1.5% in the year commencing January
6 1, 2019 ~~by May 31, 2019, increasing total savings to 7.1%;~~

7 and

8 (9) an additional 1.5% in each 12-month period
9 thereafter.

10 (d) Notwithstanding the requirements of subsection (c) of
11 this Section, a natural gas utility shall limit the amount of
12 energy efficiency implemented in any multi-year ~~3-year~~
13 reporting period established by subsection (f) of Section 8-104
14 of this Act, by an amount necessary to limit the estimated
15 average increase in the amounts paid by retail customers in
16 connection with natural gas service to no more than 2% in the
17 applicable multi-year ~~3-year~~ reporting period. The energy
18 savings requirements in subsection (c) of this Section may be
19 reduced by the Commission for the subject plan, if the utility
20 demonstrates by substantial evidence that it is highly unlikely
21 that the requirements could be achieved without exceeding the
22 applicable spending limits in any multi-year ~~3-year~~ reporting
23 period. No later than September 1, 2013, the Commission shall
24 review the limitation on the amount of energy efficiency
25 measures implemented pursuant to this Section and report to the
26 General Assembly, in the report required by subsection (k) of

1 this Section, its findings as to whether that limitation unduly
2 constrains the procurement of energy efficiency measures.

3 (e) The provisions of this subsection (e) apply to those
4 multi-year plans that commence prior to January 1, 2018 ~~Natural~~
5 ~~gas utilities shall be responsible for overseeing the design,~~
6 ~~development, and filing of their efficiency plans with the~~
7 ~~Commission.~~ The utility shall utilize 75% of the available
8 funding associated with energy efficiency programs approved by
9 the Commission, and may outsource various aspects of program
10 development and implementation. The remaining 25% of available
11 funding shall be used by the Department of Commerce and
12 Economic Opportunity to implement energy efficiency measures
13 that achieve no less than 20% of the requirements of subsection
14 (c) of this Section. Such measures shall be designed in
15 conjunction with the utility and approved by the Commission.
16 The Department may outsource development and implementation of
17 energy efficiency measures. A minimum of 10% of the entire
18 portfolio of cost-effective energy efficiency measures shall
19 be procured from local government, municipal corporations,
20 school districts, and community college districts. Five
21 percent of the entire portfolio of cost-effective energy
22 efficiency measures may be granted to local government and
23 municipal corporations for market transformation initiatives.
24 The Department shall coordinate the implementation of these
25 measures and shall integrate delivery of natural gas efficiency
26 programs with electric efficiency programs delivered pursuant

1 to Section 8-103 of this Act, unless the Department can show
2 that integration is not feasible.

3 The apportionment of the dollars to cover the costs to
4 implement the Department's share of the portfolio of energy
5 efficiency measures shall be made to the Department once the
6 Department has executed rebate agreements, grants, or
7 contracts for energy efficiency measures and provided
8 supporting documentation for those rebate agreements, grants,
9 and contracts to the utility. The Department is authorized to
10 adopt any rules necessary and prescribe procedures in order to
11 ensure compliance by applicants in carrying out the purposes of
12 rebate agreements for energy efficiency measures implemented
13 by the Department made under this Section.

14 The details of the measures implemented by the Department
15 shall be submitted by the Department to the Commission in
16 connection with the utility's filing regarding the energy
17 efficiency measures that the utility implements.

18 The portfolio of measures, administered by both the
19 utilities and the Department, shall, in combination, be
20 designed to achieve the annual energy savings requirements set
21 forth in subsection (c) of this Section, as modified by
22 subsection (d) of this Section.

23 The utility and the Department shall agree upon a
24 reasonable portfolio of measures and determine the measurable
25 corresponding percentage of the savings goals associated with
26 measures implemented by the Department.

1 No utility shall be assessed a penalty under subsection (f)
2 of this Section for failure to make a timely filing if that
3 failure is the result of a lack of agreement with the
4 Department with respect to the allocation of responsibilities
5 or related costs or target assignments. In that case, the
6 Department and the utility shall file their respective plans
7 with the Commission and the Commission shall determine an
8 appropriate division of measures and programs that meets the
9 requirements of this Section.

10 (e-5) The provisions of this subsection (e-5) shall be
11 applicable to those multi-year plans that commence after
12 December 31, 2017. Natural gas utilities shall be responsible
13 for overseeing the design, development, and filing of their
14 efficiency plans with the Commission and may outsource
15 development and implementation of energy efficiency measures.
16 A minimum of 10% of the entire portfolio of cost-effective
17 energy efficiency measures shall be procured from local
18 government, municipal corporations, school districts, and
19 community college districts. Five percent of the entire
20 portfolio of cost-effective energy efficiency measures may be
21 granted to local government and municipal corporations for
22 market transformation initiatives.

23 The utilities shall also present a portfolio of energy
24 efficiency measures proportionate to the share of total annual
25 utility revenues in Illinois from households at or below 150%
26 of the poverty level. Such programs shall be targeted to

1 households with incomes at or below 80% of area median income.

2 (e-10) A utility providing approved energy efficiency
3 measures in this State shall be permitted to recover costs of
4 those measures through an automatic adjustment clause tariff
5 filed with and approved by the Commission. The tariff shall be
6 established outside the context of a general rate case and
7 shall be applicable to the utility's customers other than the
8 customers described in subsection (m) of this Section. Each
9 year the Commission shall initiate a review to reconcile any
10 amounts collected with the actual costs and to determine the
11 required adjustment to the annual tariff factor to match annual
12 expenditures.

13 (e-15) For those multi-year plans that commence prior to
14 January 1, 2018, each ~~Each~~ utility shall include, in its
15 recovery of costs, the costs estimated for both the utility's
16 and the Department's implementation of energy efficiency
17 measures. Costs collected by the utility for measures
18 implemented by the Department shall be submitted to the
19 Department pursuant to Section 605-323 of the Civil
20 Administrative Code of Illinois, shall be deposited into the
21 Energy Efficiency Portfolio Standards Fund, and shall be used
22 by the Department solely for the purpose of implementing these
23 measures. A utility shall not be required to advance any moneys
24 to the Department but only to forward such funds as it has
25 collected. The Department shall report to the Commission on an
26 annual basis regarding the costs actually incurred by the

1 Department in the implementation of the measures. Any changes
2 to the costs of energy efficiency measures as a result of plan
3 modifications shall be appropriately reflected in amounts
4 recovered by the utility and turned over to the Department.

5 ~~The portfolio of measures, administered by both the~~
6 ~~utilities and the Department, shall, in combination, be~~
7 ~~designed to achieve the annual energy savings requirements set~~
8 ~~forth in subsection (c) of this Section, as modified by~~
9 ~~subsection (d) of this Section.~~

10 ~~The utility and the Department shall agree upon a~~
11 ~~reasonable portfolio of measures and determine the measurable~~
12 ~~corresponding percentage of the savings goals associated with~~
13 ~~measures implemented by the Department.~~

14 ~~No utility shall be assessed a penalty under subsection (f)~~
15 ~~of this Section for failure to make a timely filing if that~~
16 ~~failure is the result of a lack of agreement with the~~
17 ~~Department with respect to the allocation of responsibilities~~
18 ~~or related costs or target assignments. In that case, the~~
19 ~~Department and the utility shall file their respective plans~~
20 ~~with the Commission and the Commission shall determine an~~
21 ~~appropriate division of measures and programs that meets the~~
22 ~~requirements of this Section.~~

23 ~~If the Department is unable to meet performance~~
24 ~~requirements for the portion of the portfolio implemented by~~
25 ~~the Department, then the utility and the Department shall~~
26 ~~jointly submit a modified filing to the Commission explaining~~

1 ~~the performance shortfall and recommending an appropriate~~
2 ~~course going forward, including any program modifications that~~
3 ~~may be appropriate in light of the evaluations conducted under~~
4 ~~item (8) of subsection (f) of this Section. In this case, the~~
5 ~~utility obligation to collect the Department's costs and turn~~
6 ~~over those funds to the Department under this subsection (e)~~
7 ~~shall continue only if the Commission approves the~~
8 ~~modifications to the plan proposed by the Department.~~

9 (f) No later than October 1, 2010, each gas utility shall
10 file an energy efficiency plan with the Commission to meet the
11 energy efficiency standards through May 31, 2014. No later than
12 October 1, 2013, each gas utility shall file an energy
13 efficiency plan with the Commission to meet the energy
14 efficiency standards through May 31, 2017. Beginning in 2017
15 and every 4 ~~Every 3~~ years thereafter, each utility shall file,
16 ~~no later than October 1,~~ an energy efficiency plan with the
17 Commission to meet the energy efficiency standards for the next
18 applicable 4-year period beginning January 1 of the year
19 following the filing. For those multi-year plans commencing on
20 January 1, 2018, each utility shall file its proposed energy
21 efficiency plan no later than 30 days after the effective date
22 of this amendatory Act of the 99th General Assembly or May 1,
23 2017, whichever is later. Beginning in 2021 and every 4 years
24 thereafter, each utility shall file its energy efficiency plan
25 no later than March 1. If a utility does not file such a plan on
26 or before the applicable filing deadline for the plan by

1 ~~October 1 of the applicable year~~, then it shall face a penalty
2 of \$100,000 per day until the plan is filed.

3 Each utility's plan shall set forth the utility's proposals
4 to meet the utility's portion of the energy efficiency
5 standards identified in subsection (c) of this Section, as
6 modified by subsection (d) of this Section, taking into account
7 the unique circumstances of the utility's service territory.

8 For those plans commencing after December 31, 2021, the ~~The~~
9 Commission shall seek public comment on the utility's plan and
10 shall issue an order approving or disapproving each plan within
11 6 months after its submission. For those plans commencing on
12 January 1, 2018, the Commission shall seek public comment on
13 the utility's plan and shall issue an order approving or
14 disapproving each plan no later than August 31, 2017, or 105
15 days after the effective date of this amendatory Act of the
16 99th General Assembly, whichever is later. If the Commission

17 disapproves a plan, the Commission shall, within 30 days,
18 describe in detail the reasons for the disapproval and describe
19 a path by which the utility may file a revised draft of the
20 plan to address the Commission's concerns satisfactorily. If
21 the utility does not refile with the Commission within 60 days
22 after the disapproval, the utility shall be subject to
23 penalties at a rate of \$100,000 per day until the plan is
24 filed. This process shall continue, and penalties shall accrue,
25 until the utility has successfully filed a portfolio of energy
26 efficiency measures. Penalties shall be deposited into the

1 Energy Efficiency Trust Fund and the cost of any such penalties
2 may not be recovered from ratepayers. In submitting proposed
3 energy efficiency plans and funding levels to meet the savings
4 goals adopted by this Act the utility shall:

5 (1) Demonstrate that its proposed energy efficiency
6 measures will achieve the requirements that are identified
7 in subsection (c) of this Section, as modified by
8 subsection (d) of this Section.

9 (2) Present specific proposals to implement new
10 building and appliance standards that have been placed into
11 effect.

12 (3) Present estimates of the total amount paid for gas
13 service expressed on a per therm basis associated with the
14 proposed portfolio of measures designed to meet the
15 requirements that are identified in subsection (c) of this
16 Section, as modified by subsection (d) of this Section.

17 (4) For those multi-year plans that commence prior to
18 January 1, 2018, coordinate ~~Coordinate~~ with the Department
19 to present a portfolio of energy efficiency measures
20 proportionate to the share of total annual utility revenues
21 in Illinois from households at or below 150% of the poverty
22 level. Such programs shall be targeted to households with
23 incomes at or below 80% of area median income.

24 (5) Demonstrate that its overall portfolio of energy
25 efficiency measures, not including low-income programs
26 described in ~~covered by~~ item (4) of this subsection (f) and

1 subsection (e-5) of this Section, are cost-effective using
2 the total resource cost test and represent a diverse cross
3 section of opportunities for customers of all rate classes
4 to participate in the programs.

5 (6) Demonstrate that a gas utility affiliated with an
6 electric utility that is required to comply with Section
7 8-103 or 8-103B of this Act has integrated gas and electric
8 efficiency measures into a single program that reduces
9 program or participant costs and appropriately allocates
10 costs to gas and electric ratepayers. For those multi-year
11 plans that commence prior to January 1, 2018, the ~~The~~
12 Department shall integrate all gas and electric programs it
13 delivers in any such utilities' service territories,
14 unless the Department can show that integration is not
15 feasible or appropriate.

16 (7) Include a proposed cost recovery tariff mechanism
17 to fund the proposed energy efficiency measures and to
18 ensure the recovery of the prudently and reasonably
19 incurred costs of Commission-approved programs.

20 (8) Provide for quarterly status reports tracking
21 implementation of and expenditures for the utility's
22 portfolio of measures and, if applicable, the Department's
23 portfolio of measures, an annual independent review, and a
24 full independent evaluation of the multi-year ~~3-year~~
25 results of the performance and the cost-effectiveness of
26 the utility's and, if applicable, Department's portfolios

1 of measures and broader net program impacts and, to the
2 extent practical, for adjustment of the measures on a going
3 forward basis as a result of the evaluations. The resources
4 dedicated to evaluation shall not exceed 3% of portfolio
5 resources in any given multi-year ~~3-year~~ period.

6 (g) No more than 3% of expenditures on energy efficiency
7 measures may be allocated for demonstration of breakthrough
8 equipment and devices.

9 (h) Illinois natural gas utilities that are affiliated by
10 virtue of a common parent company may, at the utilities'
11 request, be considered a single natural gas utility for
12 purposes of complying with this Section.

13 (i) If, after 3 years, a gas utility fails to meet the
14 efficiency standard specified in subsection (c) of this Section
15 as modified by subsection (d), then it shall make a
16 contribution to the Low-Income Home Energy Assistance Program.
17 The total liability for failure to meet the goal shall be
18 assessed as follows:

19 (1) a large gas utility shall pay \$600,000;

20 (2) a medium gas utility shall pay \$400,000; and

21 (3) a small gas utility shall pay \$200,000.

22 For purposes of this Section, (i) a "large gas utility" is
23 a gas utility that on December 31, 2008, served more than
24 1,500,000 gas customers in Illinois; (ii) a "medium gas
25 utility" is a gas utility that on December 31, 2008, served
26 fewer than 1,500,000, but more than 500,000 gas customers in

1 Illinois; and (iii) a "small gas utility" is a gas utility that
2 on December 31, 2008, served fewer than 500,000 and more than
3 100,000 gas customers in Illinois. The costs of this
4 contribution may not be recovered from ratepayers.

5 If a gas utility fails to meet the efficiency standard
6 specified in subsection (c) of this Section, as modified by
7 subsection (d) of this Section, in any 2 consecutive multi-year
8 ~~3-year~~ planning periods, then the responsibility for
9 implementing the utility's energy efficiency measures shall be
10 transferred to an independent program administrator selected
11 by the Commission. Reasonable and prudent costs incurred by the
12 independent program administrator to meet the efficiency
13 standard specified in subsection (c) of this Section, as
14 modified by subsection (d) of this Section, may be recovered
15 from the customers of the affected gas utilities, other than
16 customers described in subsection (m) of this Section. The
17 utility shall provide the independent program administrator
18 with all information and assistance necessary to perform the
19 program administrator's duties including but not limited to
20 customer, account, and energy usage data, and shall allow the
21 program administrator to include inserts in customer bills. The
22 utility may recover reasonable costs associated with any such
23 assistance.

24 (j) No utility shall be deemed to have failed to meet the
25 energy efficiency standards to the extent any such failure is
26 due to a failure of the Department.

1 (k) Not later than January 1, 2012, the Commission shall
2 develop and solicit public comment on a plan to foster
3 statewide coordination and consistency between statutorily
4 mandated natural gas and electric energy efficiency programs to
5 reduce program or participant costs or to improve program
6 performance. Not later than September 1, 2013, the Commission
7 shall issue a report to the General Assembly containing its
8 findings and recommendations.

9 (l) This Section does not apply to a gas utility that on
10 January 1, 2009, provided gas service to fewer than 100,000
11 customers in Illinois.

12 (m) Subsections (a) through (k) of this Section do not
13 apply to customers of a natural gas utility that have a North
14 American Industry Classification System code number that is
15 22111 or any such code number beginning with the digits 31, 32,
16 or 33 and (i) annual usage in the aggregate of 4 million therms
17 or more within the service territory of the affected gas
18 utility or with aggregate usage of 8 million therms or more in
19 this State and complying with the provisions of item (l) of
20 this subsection (m); or (ii) using natural gas as feedstock and
21 meeting the usage requirements described in item (i) of this
22 subsection (m), to the extent such annual feedstock usage is
23 greater than 60% of the customer's total annual usage of
24 natural gas.

25 (1) Customers described in this subsection (m) of this
26 Section shall apply, on a form approved on or before

1 October 1, 2009 by the Department, to the Department to be
2 designated as a self-directing customer ("SDC") or as an
3 exempt customer using natural gas as a feedstock from which
4 other products are made, including, but not limited to,
5 feedstock for a hydrogen plant, on or before the 1st day of
6 February, 2010. Thereafter, application may be made not
7 less than 6 months before the filing date of the gas
8 utility energy efficiency plan described in subsection (f)
9 of this Section; however, a new customer that commences
10 taking service from a natural gas utility after February 1,
11 2010 may apply to become a SDC or exempt customer up to 30
12 days after beginning service. Customers described in this
13 subsection (m) that have not already been approved by the
14 Department may apply to be designated a self-directing
15 customer or exempt customer, on a form approved by the
16 Department, between September 1, 2013 and September 30,
17 2013. Customer applications that are approved by the
18 Department under this amendatory Act of the 98th General
19 Assembly shall be considered to be a self-directing
20 customer or exempt customer, as applicable, for the current
21 3-year planning period effective December 1, 2013. Such
22 application shall contain the following:

23 (A) the customer's certification that, at the time
24 of its application, it qualifies to be a SDC or exempt
25 customer described in this subsection (m) of this
26 Section;

1 (B) in the case of a SDC, the customer's
2 certification that it has established or will
3 establish by the beginning of the utility's multi-year
4 ~~3-year~~ planning period commencing subsequent to the
5 application, and will maintain for accounting
6 purposes, an energy efficiency reserve account and
7 that the customer will accrue funds in said account to
8 be held for the purpose of funding, in whole or in
9 part, energy efficiency measures of the customer's
10 choosing, which may include, but are not limited to,
11 projects involving combined heat and power systems
12 that use the same energy source both for the generation
13 of electrical or mechanical power and the production of
14 steam or another form of useful thermal energy or the
15 use of combustible gas produced from biomass, or both;

16 (C) in the case of a SDC, the customer's
17 certification that annual funding levels for the
18 energy efficiency reserve account will be equal to 2%
19 of the customer's cost of natural gas, composed of the
20 customer's commodity cost and the delivery service
21 charges paid to the gas utility, or \$150,000, whichever
22 is less;

23 (D) in the case of a SDC, the customer's
24 certification that the required reserve account
25 balance will be capped at 3 years' worth of accruals
26 and that the customer may, at its option, make further

1 deposits to the account to the extent such deposit
2 would increase the reserve account balance above the
3 designated cap level;

4 (E) in the case of a SDC, the customer's
5 certification that by October 1 of each year, beginning
6 no sooner than October 1, 2012, the customer will
7 report to the Department information, for the 12-month
8 period ending May 31 of the same year, on all deposits
9 and reductions, if any, to the reserve account during
10 the reporting year, and to the extent deposits to the
11 reserve account in any year are in an amount less than
12 \$150,000, the basis for such reduced deposits; reserve
13 account balances by month; a description of energy
14 efficiency measures undertaken by the customer and
15 paid for in whole or in part with funds from the
16 reserve account; an estimate of the energy saved, or to
17 be saved, by the measure; and that the report shall
18 include a verification by an officer or plant manager
19 of the customer or by a registered professional
20 engineer or certified energy efficiency trade
21 professional that the funds withdrawn from the reserve
22 account were used for the energy efficiency measures;

23 (F) in the case of an exempt customer, the
24 customer's certification of the level of gas usage as
25 feedstock in the customer's operation in a typical year
26 and that it will provide information establishing this

1 level, upon request of the Department;

2 (G) in the case of either an exempt customer or a
3 SDC, the customer's certification that it has provided
4 the gas utility or utilities serving the customer with
5 a copy of the application as filed with the Department;

6 (H) in the case of either an exempt customer or a
7 SDC, certification of the natural gas utility or
8 utilities serving the customer in Illinois including
9 the natural gas utility accounts that are the subject
10 of the application; and

11 (I) in the case of either an exempt customer or a
12 SDC, a verification signed by a plant manager or an
13 authorized corporate officer attesting to the
14 truthfulness and accuracy of the information contained
15 in the application.

16 (2) The Department shall review the application to
17 determine that it contains the information described in
18 provisions (A) through (I) of item (1) of this subsection
19 (m), as applicable. The review shall be completed within 30
20 days after the date the application is filed with the
21 Department. Absent a determination by the Department
22 within the 30-day period, the applicant shall be considered
23 to be a SDC or exempt customer, as applicable, for all
24 subsequent multi-year ~~3-year~~ planning periods, as of the
25 date of filing the application described in this subsection
26 (m). If the Department determines that the application does

1 not contain the applicable information described in
2 provisions (A) through (I) of item (1) of this subsection
3 (m), it shall notify the customer, in writing, of its
4 determination that the application does not contain the
5 required information and identify the information that is
6 missing, and the customer shall provide the missing
7 information within 15 working days after the date of
8 receipt of the Department's notification.

9 (3) The Department shall have the right to audit the
10 information provided in the customer's application and
11 annual reports to ensure continued compliance with the
12 requirements of this subsection. Based on the audit, if the
13 Department determines the customer is no longer in
14 compliance with the requirements of items (A) through (I)
15 of item (1) of this subsection (m), as applicable, the
16 Department shall notify the customer in writing of the
17 noncompliance. The customer shall have 30 days to establish
18 its compliance, and failing to do so, may have its status
19 as a SDC or exempt customer revoked by the Department. The
20 Department shall treat all information provided by any
21 customer seeking SDC status or exemption from the
22 provisions of this Section as strictly confidential.

23 (4) Upon request, or on its own motion, the Commission
24 may open an investigation, no more than once every 3 years
25 and not before October 1, 2014, to evaluate the
26 effectiveness of the self-directing program described in

1 this subsection (m).

2 Customers described in this subsection (m) that applied to
3 the Department on January 3, 2013, were approved by the
4 Department on February 13, 2013 to be a self-directing customer
5 or exempt customer, and receive natural gas from a utility that
6 provides gas service to at least 500,000 retail customers in
7 Illinois and electric service to at least 1,000,000 retail
8 customers in Illinois shall be considered to be a
9 self-directing customer or exempt customer, as applicable, for
10 the current 3-year planning period effective December 1, 2013.

11 (n) The applicability of this Section to customers
12 described in subsection (m) of this Section is conditioned on
13 the existence of the SDC program. In no event will any
14 provision of this Section apply to such customers after January
15 1, 2020.

16 (o) Utilities' 3-year energy efficiency plans approved by
17 the Commission on or before the effective date of this
18 amendatory Act of the 99th General Assembly for the period June
19 1, 2014 through May 31, 2017 shall continue to be in force and
20 effect through December 31, 2017 so that the energy efficiency
21 programs set forth in those plans continue to be offered during
22 the period June 1, 2017 through December 31, 2017. Each utility
23 is authorized to increase, on a pro rata basis, the energy
24 savings goals and budgets approved in its plan to reflect the
25 additional 7 months of the plan's operation.

26 (Source: P.A. 97-813, eff. 7-13-12; 97-841, eff. 7-20-12;

1 98-90, eff. 7-15-13; 98-225, eff. 8-9-13; 98-604, eff.
2 12-17-13.)

3 (220 ILCS 5/9-107 new)

4 Sec. 9-107. Revenue balancing adjustments.

5 (a) In this Section:

6 "Reconciliation period" means a period beginning with the
7 January monthly billing period and extending through the
8 December monthly billing period.

9 "Rate case reconciliation revenue requirement" means the
10 final distribution revenue requirement or requirements
11 approved by the Commission in the utility's rate case or
12 formula rate proceeding to set the rates initially applicable
13 in the relevant reconciliation period after the conclusion of
14 the period. In the event the Commission has approved more than
15 one revenue requirement for the reconciliation period, the
16 amount of rate case revenue under each approved revenue
17 requirement shall be prorated based upon the number of days
18 under which each revenue requirement was in effect.

19 (b) If an electric utility has a performance-based formula
20 rate in effect under Section 16-108.5, then the utility shall
21 be permitted to revise the formula rate and schedules to reduce
22 the 50 basis point values to zero that would otherwise apply
23 under paragraph (5) of subsection (c) of Section 16-108.5. Such
24 revision and reduction shall apply beginning with the
25 reconciliation conducted for the 2017 calendar year.

1 If the utility no longer has a performance-based formula in
2 effect under Section 16-108.5, then the utility shall be
3 permitted to implement the revenue balancing adjustment tariff
4 described in subsection (c) of this Section.

5 (c) An electric utility that is authorized under subsection
6 (b) of this Section to implement a revenue balancing adjustment
7 tariff may file the tariff for the purpose of preventing
8 undercollections or overcollections of distribution revenues
9 as compared to the revenue requirement or requirements approved
10 by the Commission on which the rates giving rise to those
11 revenues were based. The tariff shall calculate an annual
12 adjustment that reflects any difference between the actual
13 delivery service revenue billed for services provided during
14 the relevant reconciliation period and the rate case
15 reconciliation revenue requirement for the relevant
16 reconciliation period and shall set forth the reconciliation
17 categories or classes, or a combination of both, in a manner
18 determined at the utility's discretion.

19 (d) A utility that elects to file the tariff authorized by
20 this Section shall file the tariff outside the context of a
21 general rate case or formula rate proceeding, and the
22 Commission shall, after notice and hearing, approve the tariff
23 or approve with modification no later than 120 days after the
24 utility files the tariff, and the tariff shall remain in effect
25 at the discretion of the utility. The tariff shall also require
26 that the electric utility submit an annual revenue balancing

1 reconciliation report to the Commission reflecting the
2 difference between the actual delivery service revenue and rate
3 case revenue for the applicable reconciliation and identifying
4 the charges or credits to be applied thereafter. The annual
5 revenue balancing reconciliation report shall be filed with the
6 Commission no later than March 20 of the year following a
7 reconciliation period. The Commission may initiate a review of
8 the revenue balancing reconciliation report each year to
9 determine if any subsequent adjustment is necessary to align
10 actual delivery service revenue and rate case revenue. In the
11 event the Commission elects to initiate such review, the
12 Commission shall, after notice and hearing, enter an order
13 approving, or approving as modified, such revenue balancing
14 reconciliation report no later than 120 days after the utility
15 files its report with the Commission. If the Commission does
16 not initiate such review, the revenue balancing reconciliation
17 report and the identified charges or credits shall be deemed
18 accepted and approved 120 days after the utility files the
19 report and shall not be subject to review in any other
20 proceeding.

21 (220 ILCS 5/16-107)

22 Sec. 16-107. Real-time pricing.

23 (a) Each electric utility shall file, on or before May 1,
24 1998, a tariff or tariffs which allow nonresidential retail
25 customers in the electric utility's service area to elect

1 real-time pricing beginning October 1, 1998.

2 (b) Each electric utility shall file, on or before May 1,
3 2000, a tariff or tariffs which allow residential retail
4 customers in the electric utility's service area to elect
5 real-time pricing beginning October 1, 2000.

6 (b-5) Each electric utility shall file a tariff or tariffs
7 allowing residential retail customers in the electric
8 utility's service area to elect real-time pricing beginning
9 January 2, 2007. The Commission may, after notice and hearing,
10 approve the tariff or tariffs. ~~A customer who elects real time~~
11 ~~pricing shall remain on such rate for a minimum of 12 months.~~
12 ~~The Commission may, after notice and hearing, approve the~~
13 ~~tariff or tariffs, provided that the Commission finds that the~~
14 ~~potential for demand reductions will result in net economic~~
15 ~~benefits to all residential customers of the electric utility.~~
16 ~~In examining economic benefits from demand reductions, the~~
17 ~~Commission shall, at a minimum, consider the following:~~
18 ~~improvements to system reliability and power quality,~~
19 ~~reduction in wholesale market prices and price volatility,~~
20 ~~electric utility cost avoidance and reductions, market power~~
21 ~~mitigation, and other benefits of demand reductions, but only~~
22 ~~to the extent that the effects of reduced demand can be~~
23 ~~demonstrated to lower the cost of electricity delivered to~~
24 ~~residential customers.~~ A tariff or tariffs approved pursuant to
25 this subsection (b-5) shall, at a minimum, describe (i) the
26 methodology for determining the market price of energy to be

1 reflected in the real-time rate and (ii) the manner in which
2 customers who elect real-time pricing will be provided with
3 ready access to hourly market prices, including, but not
4 limited to, day-ahead hourly energy prices. A customer who
5 elects real-time pricing under a tariff approved under this
6 subsection (b-5) and thereafter terminates the election shall
7 not return to taking service under the tariff for a period of
8 12 months following the date on which the customer terminated
9 real-time pricing. However, this limitation shall cease to
10 apply on such date that the provision of electric power and
11 energy is declared competitive under Section 16-113 of this Act
12 for the customer group or groups to which this subsection (b-5)
13 applies.

14 A proceeding under this subsection (b-5) may not exceed 120
15 days in length.

16 (b-10) Each electric utility providing real-time pricing
17 pursuant to subsection (b-5) shall install a meter capable of
18 recording hourly interval energy use at the service location of
19 each customer that elects real-time pricing pursuant to this
20 subsection.

21 (b-15) If the Commission issues an order pursuant to
22 subsection (b-5), the affected electric utility shall contract
23 with an entity not affiliated with the electric utility to
24 serve as a program administrator to develop and implement a
25 program to provide consumer outreach, enrollment, and
26 education concerning real-time pricing and to establish and

1 administer an information system and technical and other
2 customer assistance that is necessary to enable customers to
3 manage electricity use. The program administrator: (i) shall be
4 selected and compensated by the electric utility, subject to
5 Commission approval; (ii) shall have demonstrated technical
6 and managerial competence in the development and
7 administration of demand management programs; and (iii) may
8 develop and implement risk management, energy efficiency, and
9 other services related to energy use management for which the
10 program administrator shall be compensated by participants in
11 the program receiving such services. The electric utility shall
12 provide the program administrator with all information and
13 assistance necessary to perform the program administrator's
14 duties, including, but not limited to, customer, account, and
15 energy use data. The electric utility shall permit the program
16 administrator to include inserts in residential customer bills
17 2 times per year to assist with customer outreach and
18 enrollment.

19 The program administrator shall submit an annual report to
20 the electric utility no later than April 1 of each year
21 describing the operation and results of the program, including
22 information concerning the number and types of customers using
23 real-time pricing, changes in customers' energy use patterns,
24 an assessment of the value of the program to both participants
25 and non-participants, and recommendations concerning
26 modification of the program and the tariff or tariffs filed

1 under subsection (b-5). This report shall be filed by the
2 electric utility with the Commission within 30 days of receipt
3 and shall be available to the public on the Commission's web
4 site.

5 (b-20) The Commission shall monitor the performance of
6 programs established pursuant to subsection (b-15) and shall
7 order the termination or modification of a program if it
8 determines that the program is not, after a reasonable period
9 of time for development not to exceed 4 years, resulting in net
10 benefits to the residential customers of the electric utility.

11 (b-25) An electric utility shall be entitled to recover
12 reasonable costs incurred in complying with this Section,
13 provided that recovery of the costs is fairly apportioned among
14 its residential customers as provided in this subsection
15 (b-25). The electric utility may apportion ~~greater~~ costs on the
16 residential customers who elect real-time pricing, but may also
17 impose some of the costs of real-time pricing on customers who
18 do not elect real-time pricing, ~~provided that the Commission~~
19 ~~determines that the cost savings resulting from real time~~
20 ~~pricing will exceed the costs imposed on customers for~~
21 ~~maintaining the program.~~

22 (c) The electric utility's tariff or tariffs filed pursuant
23 to this Section shall be subject to Article IX.

24 (d) This Section does not apply to any electric utility
25 providing service to 100,000 or fewer customers.

26 (Source: P.A. 94-977, eff. 6-30-06.)

1 (220 ILCS 5/16-107.5)

2 Sec. 16-107.5. Net electricity metering.

3 (a) The Legislature finds and declares that a program to
4 provide net electricity metering, as defined in this Section,
5 for eligible customers can encourage private investment in
6 renewable energy resources, stimulate economic growth, enhance
7 the continued diversification of Illinois' energy resource
8 mix, and protect the Illinois environment.

9 (b) As used in this Section, (i) "community renewable
10 generation project" shall have the meaning set forth in Section
11 1-10 of the Illinois Power Agency Act; (ii) "eligible customer"
12 means a retail customer that owns or operates a solar, wind, or
13 other eligible renewable electrical generating facility with a
14 rated capacity of not more than 2,000 kilowatts that is located
15 on the customer's premises and is intended primarily to offset
16 the customer's own electrical requirements; (iii) ~~(ii)~~
17 "electricity provider" means an electric utility or
18 alternative retail electric supplier; (iv) ~~(iii)~~ "eligible
19 renewable electrical generating facility" means a generator
20 that is interconnected under rules adopted by the Commission
21 and is powered by solar electric energy, wind, dedicated crops
22 grown for electricity generation, agricultural residues,
23 untreated and unadulterated wood waste, landscape trimmings,
24 livestock manure, anaerobic digestion of livestock or food
25 processing waste, fuel cells or microturbines powered by

1 renewable fuels, or hydroelectric energy; (v) and ~~(iv)~~ "net
2 electricity metering" (or "net metering") means the
3 measurement, during the billing period applicable to an
4 eligible customer, of the net amount of electricity supplied by
5 an electricity provider to the customer's premises or provided
6 to the electricity provider by the customer or subscriber; (vi)
7 "subscriber" shall have the meaning as set forth in Section
8 1-10 of the Illinois Power Agency Act; and (vii) "subscription"
9 shall have the meaning set forth in Section 1-10 of the
10 Illinois Power Agency Act.

11 (c) A net metering facility shall be equipped with metering
12 equipment that can measure the flow of electricity in both
13 directions at the same rate.

14 (1) For eligible customers whose electric service has
15 not been declared competitive pursuant to Section 16-113 of
16 this Act as of July 1, 2011 and whose electric delivery
17 service is provided and measured on a kilowatt-hour basis
18 and electric supply service is not provided based on hourly
19 pricing, this shall typically be accomplished through use
20 of a single, bi-directional meter. If the eligible
21 customer's existing electric revenue meter does not meet
22 this requirement, the electricity provider shall arrange
23 for the local electric utility or a meter service provider
24 to install and maintain a new revenue meter at the
25 electricity provider's expense, which may be the smart
26 meter described by subsection (b) of Section 16-108.5 of

1 this Act.

2 (2) For eligible customers whose electric service has
3 not been declared competitive pursuant to Section 16-113 of
4 this Act as of July 1, 2011 and whose electric delivery
5 service is provided and measured on a kilowatt demand basis
6 and electric supply service is not provided based on hourly
7 pricing, this shall typically be accomplished through use
8 of a dual channel meter capable of measuring the flow of
9 electricity both into and out of the customer's facility at
10 the same rate and ratio. If such customer's existing
11 electric revenue meter does not meet this requirement, then
12 the electricity provider shall arrange for the local
13 electric utility or a meter service provider to install and
14 maintain a new revenue meter at the electricity provider's
15 expense, which may be the smart meter described by
16 subsection (b) of Section 16-108.5 of this Act.

17 (3) For all other eligible customers, until such time
18 as the local electric utility installs a smart meter, as
19 described by subsection (b) of Section 16-108.5 of this
20 Act, the electricity provider may arrange for the local
21 electric utility or a meter service provider to install and
22 maintain metering equipment capable of measuring the flow
23 of electricity both into and out of the customer's facility
24 at the same rate and ratio, typically through the use of a
25 dual channel meter. If the eligible customer's existing
26 electric revenue meter does not meet this requirement, then

1 the costs of installing such equipment shall be paid for by
2 the customer.

3 (d) An electricity provider shall measure and charge or
4 credit for the net electricity supplied to eligible customers
5 or provided by eligible customers whose electric service has
6 not been declared competitive pursuant to Section 16-113 of
7 this ~~the~~ Act as of July 1, 2011 and whose electric delivery
8 service is provided and measured on a kilowatt-hour basis and
9 electric supply service is not provided based on hourly pricing
10 in the following manner:

11 (1) If the amount of electricity used by the customer
12 during the billing period exceeds the amount of electricity
13 produced by the customer, the electricity provider shall
14 charge the customer for the net electricity supplied to and
15 used by the customer as provided in subsection (e-5) of
16 this Section.

17 (2) If the amount of electricity produced by a customer
18 during the billing period exceeds the amount of electricity
19 used by the customer during that billing period, the
20 electricity provider supplying that customer shall apply a
21 1:1 kilowatt-hour credit to a subsequent bill for service
22 to the customer for the net electricity supplied to the
23 electricity provider. The electricity provider shall
24 continue to carry over any excess kilowatt-hour credits
25 earned and apply those credits to subsequent billing
26 periods to offset any customer-generator consumption in

1 those billing periods until all credits are used or until
2 the end of the annualized period.

3 (3) At the end of the year or annualized over the
4 period that service is supplied by means of net metering,
5 or in the event that the retail customer terminates service
6 with the electricity provider prior to the end of the year
7 or the annualized period, any remaining credits in the
8 customer's account shall expire.

9 (d-5) An electricity provider shall measure and charge or
10 credit for the net electricity supplied to eligible customers
11 or provided by eligible customers whose electric service has
12 not been declared competitive pursuant to Section 16-113 of
13 this Act as of July 1, 2011 and whose electric delivery service
14 is provided and measured on a kilowatt-hour basis and electric
15 supply service is provided based on hourly pricing in the
16 following manner:

17 (1) If the amount of electricity used by the customer
18 during any hourly period exceeds the amount of electricity
19 produced by the customer, the electricity provider shall
20 charge the customer for the net electricity supplied to and
21 used by the customer according to the terms of the contract
22 or tariff to which the same customer would be assigned to
23 or be eligible for if the customer was not a net metering
24 customer.

25 (2) If the amount of electricity produced by a customer
26 during any hourly period exceeds the amount of electricity

1 used by the customer during that hourly period, the energy
2 provider shall apply a credit for the net kilowatt-hours
3 produced in such period. The credit shall consist of an
4 energy credit and a delivery service credit. The energy
5 credit shall be valued at the same price per kilowatt-hour
6 as the electric service provider would charge for
7 kilowatt-hour energy sales during that same hourly period.
8 The delivery credit shall be equal to the net
9 kilowatt-hours produced in such hourly period times a
10 credit that reflects all kilowatt-hour based charges in the
11 customer's electric service rate, excluding energy
12 charges.

13 (e) An electricity provider shall measure and charge or
14 credit for the net electricity supplied to eligible customers
15 whose electric service has not been declared competitive
16 pursuant to Section 16-113 of this Act as of July 1, 2011 and
17 whose electric delivery service is provided and measured on a
18 kilowatt demand basis and electric supply service is not
19 provided based on hourly pricing in the following manner:

20 (1) If the amount of electricity used by the customer
21 during the billing period exceeds the amount of electricity
22 produced by the customer, then the electricity provider
23 shall charge the customer for the net electricity supplied
24 to and used by the customer as provided in subsection (e-5)
25 of this Section. The customer shall remain responsible for
26 all taxes, fees, and utility delivery charges that would

1 otherwise be applicable to the net amount of electricity
2 used by the customer.

3 (2) If the amount of electricity produced by a customer
4 during the billing period exceeds the amount of electricity
5 used by the customer during that billing period, then the
6 electricity provider supplying that customer shall apply a
7 1:1 kilowatt-hour credit that reflects the kilowatt-hour
8 based charges in the customer's electric service rate to a
9 subsequent bill for service to the customer for the net
10 electricity supplied to the electricity provider. The
11 electricity provider shall continue to carry over any
12 excess kilowatt-hour credits earned and apply those
13 credits to subsequent billing periods to offset any
14 customer-generator consumption in those billing periods
15 until all credits are used or until the end of the
16 annualized period.

17 (3) At the end of the year or annualized over the
18 period that service is supplied by means of net metering,
19 or in the event that the retail customer terminates service
20 with the electricity provider prior to the end of the year
21 or the annualized period, any remaining credits in the
22 customer's account shall expire.

23 (e-5) An electricity provider shall provide electric
24 service to eligible customers who utilize net metering at
25 non-discriminatory rates that are identical, with respect to
26 rate structure, retail rate components, and any monthly

1 charges, to the rates that the customer would be charged if not
2 a net metering customer. An electricity provider shall not
3 charge net metering customers any fee or charge or require
4 additional equipment, insurance, or any other requirements not
5 specifically authorized by interconnection standards
6 authorized by the Commission, unless the fee, charge, or other
7 requirement would apply to other similarly situated customers
8 who are not net metering customers. The customer will remain
9 responsible for all taxes, fees, and utility delivery charges
10 that would otherwise be applicable to the net amount of
11 electricity used by the customer. Subsections (c) through (e)
12 of this Section shall not be construed to prevent an
13 arms-length agreement between an electricity provider and an
14 eligible customer that sets forth different prices, terms, and
15 conditions for the provision of net metering service,
16 including, but not limited to, the provision of the appropriate
17 metering equipment for non-residential customers.

18 (f) Notwithstanding the requirements of subsections (c)
19 through (e-5) of this Section, an electricity provider must
20 require dual-channel metering for customers operating eligible
21 renewable electrical generating facilities with a nameplate
22 rating up to 2,000 kilowatts and to whom the provisions of
23 neither subsection (d), (d-5), nor (e) of this Section apply.
24 In such cases, electricity charges and credits shall be
25 determined as follows:

26 (1) The electricity provider shall assess and the

1 customer remains responsible for all taxes, fees, and
2 utility delivery charges that would otherwise be
3 applicable to the gross amount of kilowatt-hours supplied
4 to the eligible customer by the electricity provider.

5 (2) Each month that service is supplied by means of
6 dual-channel metering, the electricity provider shall
7 compensate the eligible customer for any excess
8 kilowatt-hour credits at the electricity provider's
9 avoided cost of electricity supply over the monthly period
10 or as otherwise specified by the terms of a power-purchase
11 agreement negotiated between the customer and electricity
12 provider.

13 (3) For all eligible net metering customers taking
14 service from an electricity provider under contracts or
15 tariffs employing hourly or time of use rates, any monthly
16 consumption of electricity shall be calculated according
17 to the terms of the contract or tariff to which the same
18 customer would be assigned to or be eligible for if the
19 customer was not a net metering customer. When those same
20 customer-generators are net generators during any discrete
21 hourly or time of use period, the net kilowatt-hours
22 produced shall be valued at the same price per
23 kilowatt-hour as the electric service provider would
24 charge for retail kilowatt-hour sales during that same time
25 of use period.

26 (g) For purposes of federal and State laws providing

1 renewable energy credits or greenhouse gas credits, the
2 eligible customer shall be treated as owning and having title
3 to the renewable energy attributes, renewable energy credits,
4 and greenhouse gas emission credits related to any electricity
5 produced by the qualified generating unit. The electricity
6 provider may not condition participation in a net metering
7 program on the signing over of a customer's renewable energy
8 credits; provided, however, this subsection (g) shall not be
9 construed to prevent an arms-length agreement between an
10 electricity provider and an eligible customer that sets forth
11 the ownership or title of the credits.

12 (h) Within 120 days after the effective date of this
13 amendatory Act of the 95th General Assembly, the Commission
14 shall establish standards for net metering and, if the
15 Commission has not already acted on its own initiative,
16 standards for the interconnection of eligible renewable
17 generating equipment to the utility system. The
18 interconnection standards shall address any procedural
19 barriers, delays, and administrative costs associated with the
20 interconnection of customer-generation while ensuring the
21 safety and reliability of the units and the electric utility
22 system. The Commission shall consider the Institute of
23 Electrical and Electronics Engineers (IEEE) Standard 1547 and
24 the issues of (i) reasonable and fair fees and costs, (ii)
25 clear timelines for major milestones in the interconnection
26 process, (iii) nondiscriminatory terms of agreement, and (iv)

1 any best practices for interconnection of distributed
2 generation.

3 (i) All electricity providers shall begin to offer net
4 metering no later than April 1, 2008.

5 (j) An electricity provider shall provide net metering to
6 eligible customers until the load of its net metering customers
7 equals 5% of the total peak demand supplied by that electricity
8 provider during the previous year. After such time as the load
9 of the electricity provider's net metering customers equals 5%
10 of the total peak demand supplied by that electricity provider
11 during the previous year, eligible customers that begin taking
12 net metering shall only be eligible for netting of energy.
13 ~~Electricity providers are authorized to offer net metering~~
14 ~~beyond the 5% level if they so choose.~~

15 (k) Each electricity provider shall maintain records and
16 report annually to the Commission the total number of net
17 metering customers served by the provider, as well as the type,
18 capacity, and energy sources of the generating systems used by
19 the net metering customers. Nothing in this Section shall limit
20 the ability of an electricity provider to request the redaction
21 of information deemed by the Commission to be confidential
22 business information. ~~Each electricity provider shall notify~~
23 ~~the Commission when the total generating capacity of its net~~
24 ~~metering customers is equal to or in excess of the 5% cap~~
25 ~~specified in subsection (j) of this Section.~~

26 (1) (1) Notwithstanding the definition of "eligible

customer" in item (ii) ~~(i)~~ of subsection (b) of this Section, each electricity provider shall ~~consider whether to allow meter aggregation for the purposes of~~ net metering as set forth in this subsection (1) and for the following projects on:

(A) ~~(1)~~ properties owned or leased by multiple customers that contribute to the operation of an eligible renewable electrical generating facility through an ownership or leasehold interest of at least 200 watts in such facility, such as a community-owned wind project, a community-owned biomass project, a community-owned solar project, or a community methane digester processing livestock waste from multiple sources, provided that the facility is also located within the utility's service territory; and

(B) ~~(2)~~ individual units, apartments, or properties located in a single building that are owned or leased by multiple customers and collectively served by a common eligible renewable electrical generating facility, such as an office or apartment building, a shopping center or strip mall served by photovoltaic panels on the roof; and -

(C) subscriptions to community renewable generation projects.

In addition, the nameplate capacity of the eligible renewable electric generating facility that serves the

1 demand of the properties, units, or apartments identified
2 in paragraphs (1) and (2) of this subsection (1) shall not
3 exceed 2,000 kilowatts in nameplate capacity in total. Any
4 eligible renewable electrical generating facility or
5 community renewable generation project that is powered by
6 photovoltaic electric energy and installed after the
7 effective date of this amendatory Act of the 99th General
8 Assembly must be installed by a qualified person in
9 compliance with the requirements of Section 16-128A of the
10 Public Utilities Act and any rules or regulations adopted
11 thereunder.

12 (2) Notwithstanding anything to the contrary, an
13 electricity provider shall provide credits for the
14 electricity produced by the projects described in
15 paragraph (1) of this subsection (1). The electricity
16 provider shall provide credits at the subscriber's energy
17 supply rate on the subscriber's monthly bill equal to the
18 subscriber's share of the production of electricity from
19 the project, as determined by paragraph (3) of this
20 subsection (1).

21 (3) For the purposes of facilitating net metering, the
22 owner or operator of the eligible renewable electrical
23 generating facility or community renewable generation
24 project shall be responsible for determining the amount of
25 the credit that each customer or subscriber participating
26 in a project under this subsection (1) is to receive in the

1 following manner: ~~this subsection (1), "meter aggregation"~~
2 ~~means the combination of reading and billing on a pro rata~~
3 ~~basis for the types of eligible customers described in this~~
4 ~~Section.~~

5 (A) The owner or operator shall, on a monthly
6 basis, provide to the electric utility the
7 kilowatthours of generation attributable to each of
8 the utility's retail customers and subscribers
9 participating in projects under this subsection (1) in
10 accordance with the customer's or subscriber's share
11 of the eligible renewable electric generating
12 facility's or community renewable generation project's
13 output of power and energy for such month. The owner or
14 operator shall electronically transmit such
15 calculations and associated documentation to the
16 electric utility, in a format or method set forth in
17 the applicable tariff, on a monthly basis so that the
18 electric utility can reflect the monetary credits on
19 customers' and subscribers' electric utility bills.
20 The electric utility shall be permitted to revise its
21 tariffs to implement the provisions of this amendatory
22 Act of the 99th General Assembly. The owner or operator
23 shall separately provide the electric utility with the
24 documentation detailing the calculations supporting
25 the credit in the manner set forth in the applicable
26 tariff.

1 (B) For those participating customers and
2 subscribers who receive their energy supply from an
3 alternative retail electric supplier, the electric
4 utility shall remit to the applicable alternative
5 retail electric supplier the information provided
6 under subparagraph (A) of this paragraph (3) for such
7 customers and subscribers in a manner set forth in such
8 alternative retail electric supplier's net metering
9 program, or as otherwise agreed between the utility and
10 the alternative retail electric supplier. The
11 alternative retail electric supplier shall then submit
12 to the utility the amount of the charges for power and
13 energy to be applied to such customers and subscribers,
14 including the amount of the credit associated with net
15 metering.

16 (C) A participating customer or subscriber may
17 provide authorization as required by applicable law
18 that directs the electric utility to submit
19 information to the owner or operator of the eligible
20 renewable electrical generating facility or community
21 renewable generation project to which the customer or
22 subscriber has an ownership or leasehold interest or a
23 subscription. Such information shall be limited to the
24 components of the net metering credit calculated under
25 this subsection (1), including the bill credit rate,
26 total kilowatthours, and total monetary credit value

1 applied to the customer's or subscriber's bill for the
2 monthly billing period.

3 (1-5) Within 90 days after the effective date of this
4 amendatory Act of the 99th General Assembly, each electric
5 utility subject to this Section shall file a tariff to
6 implement the provisions of subsection (1) of this Section,
7 which shall, consistent with the provisions of subsection (1),
8 describe the terms and conditions under which owners or
9 operators of qualifying properties, units, or apartments may
10 participate in net metering. The Commission shall approve, or
11 approve with modification, the tariff within 120 days after the
12 effective date of this amendatory Act of the 99th General
13 Assembly.

14 (m) Nothing in this Section shall affect the right of an
15 electricity provider to continue to provide, or the right of a
16 retail customer to continue to receive service pursuant to a
17 contract for electric service between the electricity provider
18 and the retail customer in accordance with the prices, terms,
19 and conditions provided for in that contract. Either the
20 electricity provider or the customer may require compliance
21 with the prices, terms, and conditions of the contract.

22 (n) At such time, if any, that the load of the electricity
23 provider's net metering customers equals 5% of the total peak
24 demand supplied by that electricity provider during the
25 previous year, as specified in subsection (j) of this Section,
26 the net metering services described in subsections (d), (d-5),

1 (e), (e-5), and (f) of this Section shall no longer be offered,
2 except as to those retail customers that are receiving net
3 metering service under these subsections at the time the net
4 metering services under those subsections are no longer
5 offered. Those retail customers that begin taking net metering
6 service after the date that net metering services are no longer
7 offered under such subsections shall be subject to the
8 provisions set forth in the following paragraphs (1) through
9 (3) of this subsection (n):

10 (1) An electricity provider shall charge or credit for
11 the net electricity supplied to eligible customers or
12 provided by eligible customers whose electric supply
13 service is not provided based on hourly pricing in the
14 following manner:

15 (A) If the amount of electricity used by the
16 customer during the billing period exceeds the amount
17 of electricity produced by the customer, then the
18 electricity provider shall charge the customer for the
19 net kilowatt-hour based electricity charges reflected
20 in the customer's electric service rate supplied to and
21 used by the customer as provided in paragraph (3) of
22 this subsection (n).

23 (B) If the amount of electricity produced by a
24 customer during the billing period exceeds the amount
25 of electricity used by the customer during that billing
26 period, then the electricity provider supplying that

1 customer shall apply a 1:1 kilowatt-hour energy credit
2 that reflects the kilowatt-hour based energy charges
3 in the customer's electric service rate to a subsequent
4 bill for service to the customer for the net
5 electricity supplied to the electricity provider. The
6 electricity provider shall continue to carry over any
7 excess kilowatt-hour energy credits earned and apply
8 those credits to subsequent billing periods to offset
9 any customer-generator consumption in those billing
10 periods until all credits are used or until the end of
11 the annualized period.

12 (C) At the end of the year or annualized over the
13 period that service is supplied by means of net
14 metering, or in the event that the retail customer
15 terminates service with the electricity provider prior
16 to the end of the year or the annualized period, any
17 remaining credits in the customer's account shall
18 expire.

19 (2) An electricity provider shall charge or credit for
20 the net electricity supplied to eligible customers or
21 provided by eligible customers whose electric supply
22 service is provided based on hourly pricing in the
23 following manner:

24 (A) If the amount of electricity used by the
25 customer during any hourly period exceeds the amount of
26 electricity produced by the customer, then the

1 electricity provider shall charge the customer for the
2 net electricity supplied to and used by the customer as
3 provided in paragraph (3) of this subsection (n).

4 (B) If the amount of electricity produced by a
5 customer during any hourly period exceeds the amount of
6 electricity used by the customer during that hourly
7 period, the energy provider shall calculate an energy
8 credit for the net kilowatt-hours produced in such
9 period. The value of the energy credit shall be
10 calculated using the same price per kilowatt-hour as
11 the electric service provider would charge for
12 kilowatt-hour energy sales during that same hourly
13 period.

14 (3) An electricity provider shall provide electric
15 service to eligible customers who utilize net metering at
16 non-discriminatory rates that are identical, with respect
17 to rate structure, retail rate components, and any monthly
18 charges, to the rates that the customer would be charged if
19 not a net metering customer. An electricity provider shall
20 charge the customer for the net electricity supplied to and
21 used by the customer according to the terms of the contract
22 or tariff to which the same customer would be assigned or
23 be eligible for if the customer was not a net metering
24 customer. An electricity provider shall not charge net
25 metering customers any fee or charge or require additional
26 equipment, insurance, or any other requirements not

specifically authorized by interconnection standards
authorized by the Commission, unless the fee, charge, or
other requirement would apply to other similarly situated
customers who are not net metering customers. The charge or
credit that the customer receives for net electricity shall
be at a rate equal to the customer's energy supply rate.
The customer remains responsible for the gross amount of
delivery services charges, supply-related charges that are
kilowatt based, and all taxes and fees related to such
charges. The customer also remains responsible for all
taxes and fees that would otherwise be applicable to the
net amount of electricity used by the customer. Paragraphs
(1) and (2) of this subsection (n) shall not be construed
to prevent an arms-length agreement between an electricity
provider and an eligible customer that sets forth different
prices, terms, and conditions for the provision of net
metering service, including, but not limited to, the
provision of the appropriate metering equipment for
non-residential customers. Nothing in this paragraph (3)
shall be interpreted to mandate that a utility that is only
required to provide delivery services to a given customer
must also sell electricity to such customer.

(Source: P.A. 97-616, eff. 10-26-11; 97-646, eff. 12-30-11;
97-824, eff. 7-18-12.)

(220 ILCS 5/16-107.6 new)

1 Sec. 16-107.6. Distributed generation rebate.

2 (a) In this Section:

3 "Smart inverter" means a device that converts direct
4 current into alternating current and can autonomously
5 contribute to grid support during excursions from normal
6 operating voltage and frequency conditions by providing each of
7 the following: dynamic reactive and real power support, voltage
8 and frequency ride-through, ramp rate controls, communication
9 systems with ability to accept external commands, and other
10 functions from the electric utility.

11 "Subscriber" has the meaning set forth in Section 1-10 of
12 the Illinois Power Agency Act.

13 "Subscription" has the meaning set forth in Section 1-10 of
14 the Illinois Power Agency Act.

15 "Threshold date" means the date on which the load of an
16 electricity provider's net metering customers equals 5% of the
17 total peak demand supplied by that electricity provider during
18 the previous year, as specified under subsection (j) of Section
19 16-107.5 of this Act.

20 (b) An electric utility that serves more than 200,000
21 customers in the State shall file a petition with the
22 Commission requesting approval of the utility's tariff to
23 provide a rebate to a retail customer who owns or operates
24 distributed generation that meets the following criteria:

25 (1) has a nameplate generating capacity no greater than
26 2,000 kilowatts and is primarily used to offset that

1 customer's electricity load;

2 (2) is located on the customer's premises, for the
3 customer's own use, and not for commercial use or sales,
4 including, but not limited to, wholesale sales of electric
5 power and energy;

6 (3) is located in the electric utility's service
7 territory; and

8 (4) is interconnected under rules adopted by the
9 Commission by means of the inverter or smart inverter
10 required by this Section, as applicable.

11 For purposes of this Section, "distributed generation"
12 shall satisfy the definition of distributed renewable energy
13 generation device set forth in Section 1-10 of the Illinois
14 Power Agency Act to the extent such definition is consistent
15 with the requirements of this Section.

16 In addition, any new photovoltaic distributed generation
17 that is installed after the effective date of this amendatory
18 Act of the 99th General Assembly must be installed by a
19 qualified person, as defined by subsection (i) of Section 1-56
20 of the Illinois Power Agency Act.

21 The tariff shall provide that the utility shall be
22 permitted to operate and control the smart inverter associated
23 with the distributed generation that is the subject of the
24 rebate for the purpose of preserving reliability during
25 distribution system reliability events and shall address the
26 terms and conditions of the operation and the compensation

1 associated with the operation. Nothing in this Section shall
2 negate or supersede Institute of Electrical and Electronics
3 Engineers interconnection requirements or standards or other
4 similar standards or requirements. The tariff shall also
5 provide for additional uses of the smart inverter that shall be
6 separately compensated and which may include, but are not
7 limited to, voltage and VAR support, regulation, and other grid
8 services. As part of the proceeding described in subsection (e)
9 of this Section, the Commission shall review and determine
10 whether smart inverters can provide any additional uses or
11 services. If the Commission determines that an additional use
12 or service would be beneficial, the Commission shall determine
13 the terms and conditions of the operation and how the use or
14 service should be separately compensated.

15 (c) The proposed tariff authorized by subsection (b) of
16 this Section shall include the following participation terms
17 and formulae to calculate the value of the rebates to be
18 applied under this Section for distributed generation that
19 satisfies the criteria set forth in subsection (b) of this
20 Section:

21 (1) Until the utility files its tariff or tariffs to
22 place into effect the rebate values established by the
23 Commission under subsection (e) of this Section,
24 non-residential customers that are taking service under a
25 net metering program offered by an electricity provider
26 under the terms of Section 16-107.5 of this Act may apply

1 for a rebate as provided for in this Section. The value of
2 the rebate shall be \$250 per kilowatt of nameplate
3 generating capacity, measured as nominal DC power output,
4 of a non-residential customer's distributed generation.

5 (2) After the utility's tariff or tariffs setting the
6 new rebate values established under subsection (d) of this
7 Section take effect, retail customers may, as applicable,
8 make the following elections:

9 (A) Residential customers that are taking service
10 under a net metering program offered by an electricity
11 provider under the terms of Section 16-107.5 of this
12 Act on the threshold date may elect to either continue
13 to take such service under the terms of such program as
14 in effect on such threshold date for the useful life of
15 the customer's eligible renewable electric generating
16 facility as defined in such Section, or file an
17 application to receive a rebate under the terms of this
18 Section, provided that such application must be
19 submitted within 6 months after the effective date of
20 the tariff approved under subsection (d) of this
21 Section. The value of the rebate shall be the amount
22 established by the Commission and reflected in the
23 utility's tariff pursuant to subsection (e) of this
24 Section.

25 (B) Non-residential customers that are taking
26 service under a net metering program offered by an

1 electricity provider under the terms of Section
2 16-107.5 of this Act on the threshold date may apply
3 for a rebate as provided for in this Section. The value
4 of the rebate shall be the amount established by the
5 Commission and reflected in the utility's tariff
6 pursuant to subsection (e) of this Section.

7 (3) Upon approval of a rebate application submitted
8 under this subsection (c), the retail customer shall no
9 longer be entitled to receive any delivery service credits
10 for the excess electricity generated by its facility and
11 shall be subject to the provisions of subsection (n) of
12 Section 16-107.5 of this Act.

13 (4) To be eligible for a rebate described in this
14 subsection (c), customers who begin taking service after
15 the effective date of this amendatory Act of the 99th
16 General Assembly under a net metering program offered by an
17 electricity provider under the terms of Section 16-107.5 of
18 this Act must have a smart inverter associated with the
19 customer's distributed generation.

20 (d) The Commission shall review the proposed tariff
21 submitted under subsections (b) and (c) of this Section and may
22 make changes to the tariff that are consistent with this
23 Section and with the Commission's authority under Article IX of
24 this Act, subject to notice and hearing. Following notice and
25 hearing, the Commission shall issue an order approving, or
26 approving with modification, such tariff no later than 240 days

1 after the utility files its tariff.

2 (e) When the total generating capacity of the electricity
3 provider's net metering customers is equal to 3%, the
4 Commission shall open an investigation into an annual process
5 and formula for calculating the value of rebates for the retail
6 customers described in subsections (b) and (f) of this Section
7 that submit rebate applications after the threshold date for an
8 electric utility that elected to file a tariff pursuant to this
9 Section. The investigation shall include diverse sets of
10 stakeholders, calculations for valuing distributed energy
11 resource benefits to the grid based on best practices, and
12 assessments of present and future technological capabilities
13 of distributed energy resources. The value of such rebates
14 shall reflect the value of the distributed generation to the
15 distribution system at the location at which it is
16 interconnected, taking into account the geographic,
17 time-based, and performance-based benefits, as well as
18 technological capabilities and present and future grid needs.
19 No later than 10 days after the Commission enters its final
20 order under this subsection (e), the utility shall file its
21 tariff or tariffs in compliance with the order, and the
22 Commission shall approve, or approve with modification, the
23 tariff or tariffs within 45 days after the utility's filing.
24 For those rebate applications filed after the threshold date
25 but before the utility's tariff or tariffs filed pursuant to
26 this subsection (e) take effect, the value of the rebate shall

1 remain at the value established in subsection (c) of this
2 Section until the tariff is approved.

3 (f) Notwithstanding any provision of this Act to the
4 contrary, the owner, developer, or subscriber of a generation
5 facility that is part of a net metering program provided under
6 subsection (l) of Section 16-107.5 shall also be eligible to
7 apply for the rebate described in this Section. A subscriber to
8 the generation facility may apply for a rebate in the amount of
9 the subscriber's subscription only if the owner, developer, or
10 previous subscriber to the same panel or panels has not already
11 submitted an application, and, regardless of whether the
12 subscriber is a residential or non-residential customer, may be
13 allowed the amount identified in paragraph (1) of subsection
14 (c) or in subsection (e) of this Section applicable to such
15 customer on the date that the application is submitted. An
16 application for a rebate for a portion of a project described
17 in this subsection (f) may be submitted at or after the time
18 that a related request for net metering is made.

19 (g) No later than 60 days after the utility receives an
20 application for a rebate under its tariff approved under
21 subsection (d) or (e) of this Section, the utility shall issue
22 a rebate to the applicant under the terms of the tariff. In the
23 event the application is incomplete or the utility is otherwise
24 unable to calculate the payment based on the information
25 provided by the owner, the utility shall issue the payment no
26 later than 60 days after the application is complete or all

1 requested information is received.

2 (h) An electric utility shall recover from its retail
3 customers all of the costs of the rebates made under a tariff
4 or tariffs placed into effect under this Section, including,
5 but not limited to, the value of the rebates and all costs
6 incurred by the utility to comply with and implement this
7 Section, consistent with the following provisions:

8 (1) The utility shall defer the full amount of its
9 costs incurred under this Section as a regulatory asset.
10 The total costs deferred as a regulatory asset shall be
11 amortized over a 15-year period. The unamortized balance
12 shall be recognized as of December 31 for a given year. The
13 utility shall also earn a return on the total of the
14 unamortized balance of the regulatory assets, less any
15 deferred taxes related to the unamortized balance, at an
16 annual rate equal to the utility's weighted average cost of
17 capital that includes, based on a year-end capital
18 structure, the utility's actual cost of debt for the
19 applicable calendar year and a cost of equity, which shall
20 be calculated as the sum of (i) the average for the
21 applicable calendar year of the monthly average yields of
22 30-year U.S. Treasury bonds published by the Board of
23 Governors of the Federal Reserve System in its weekly H.15
24 Statistical Release or successor publication; and (ii) 580
25 basis points, including a revenue conversion factor
26 calculated to recover or refund all additional income taxes

1 that may be payable or receivable as a result of that
2 return.

3 When an electric utility creates a regulatory asset
4 under the provisions of this Section, the costs are
5 recovered over a period during which customers also receive
6 a benefit, which is in the public interest. Accordingly, it
7 is the intent of the General Assembly that an electric
8 utility that elects to create a regulatory asset under the
9 provisions of this Section shall recover all of the
10 associated costs, including, but not limited to, its cost
11 of capital as set forth in this Section. After the
12 Commission has approved the prudence and reasonableness of
13 the costs that comprise the regulatory asset, the electric
14 utility shall be permitted to recover all such costs, and
15 the value and recoverability through rates of the
16 associated regulatory asset shall not be limited, altered,
17 impaired, or reduced. To enable the financing of the
18 incremental capital expenditures, including regulatory
19 assets, for electric utilities that serve less than
20 3,000,000 retail customers but more than 500,000 retail
21 customers in the State, the utility's actual year-end
22 capital structure that includes a common equity ratio,
23 excluding goodwill, of up to and including 50% of the total
24 capital structure shall be deemed reasonable and used to
25 set rates.

26 (2) The utility, at its election, may recover all of

1 the costs it incurs under this Section as part of a filing
2 for a general increase in rates under Article IX of this
3 Act, as part of an annual filing to update a
4 performance-based formula rate under subsection (d) of
5 Section 16-108.5 of this Act, or through an automatic
6 adjustment clause tariff, provided that nothing in this
7 paragraph (2) permits the double recovery of such costs
8 from customers. If the utility elects to recover the costs
9 it incurs under this Section through an automatic
10 adjustment clause tariff, the utility may file its proposed
11 tariff together with the tariff it files under subsection
12 (b) of this Section or at a later time. The proposed tariff
13 shall provide for an annual reconciliation, less any
14 deferred taxes related to the reconciliation, with
15 interest at an annual rate of return equal to the utility's
16 weighted average cost of capital as calculated under
17 paragraph (1) of this subsection (h), including a revenue
18 conversion factor calculated to recover or refund all
19 additional income taxes that may be payable or receivable
20 as a result of that return, of the revenue requirement
21 reflected in rates for each calendar year, beginning with
22 the calendar year in which the utility files its automatic
23 adjustment clause tariff under this subsection (h), with
24 what the revenue requirement would have been had the actual
25 cost information for the applicable calendar year been
26 available at the filing date. The Commission shall review

1 the proposed tariff and may make changes to the tariff that
2 are consistent with this Section and with the Commission's
3 authority under Article IX of this Act, subject to notice
4 and hearing. Following notice and hearing, the Commission
5 shall issue an order approving, or approving with
6 modification, such tariff no later than 240 days after the
7 utility files its tariff.

8 (i) No later than 90 days after the Commission enters an
9 order, or order on rehearing, whichever is later, approving an
10 electric utility's proposed tariff under subsection (d) of this
11 Section, the electric utility shall provide notice of the
12 availability of rebates under this Section. Subsequent to the
13 utility's notice, any entity that offers in the State, for sale
14 or lease, distributed generation and estimates the dollar
15 saving attributable to such distributed generation shall
16 provide estimates based on both delivery service credits and
17 the rebates available under this Section.

18 (220 ILCS 5/16-108)

19 Sec. 16-108. Recovery of costs associated with the
20 provision of delivery and other services.

21 (a) An electric utility shall file a delivery services
22 tariff with the Commission at least 210 days prior to the date
23 that it is required to begin offering such services pursuant to
24 this Act. An electric utility shall provide the components of
25 delivery services that are subject to the jurisdiction of the

1 Federal Energy Regulatory Commission at the same prices, terms
2 and conditions set forth in its applicable tariff as approved
3 or allowed into effect by that Commission. The Commission shall
4 otherwise have the authority pursuant to Article IX to review,
5 approve, and modify the prices, terms and conditions of those
6 components of delivery services not subject to the jurisdiction
7 of the Federal Energy Regulatory Commission, including the
8 authority to determine the extent to which such delivery
9 services should be offered on an unbundled basis. In making any
10 such determination the Commission shall consider, at a minimum,
11 the effect of additional unbundling on (i) the objective of
12 just and reasonable rates, (ii) electric utility employees, and
13 (iii) the development of competitive markets for electric
14 energy services in Illinois.

15 (b) The Commission shall enter an order approving, or
16 approving as modified, the delivery services tariff no later
17 than 30 days prior to the date on which the electric utility
18 must commence offering such services. The Commission may
19 subsequently modify such tariff pursuant to this Act.

20 (c) The electric utility's tariffs shall define the classes
21 of its customers for purposes of delivery services charges.
22 Delivery services shall be priced and made available to all
23 retail customers electing delivery services in each such class
24 on a nondiscriminatory basis regardless of whether the retail
25 customer chooses the electric utility, an affiliate of the
26 electric utility, or another entity as its supplier of electric

1 power and energy. Charges for delivery services shall be cost
2 based, and shall allow the electric utility to recover the
3 costs of providing delivery services through its charges to its
4 delivery service customers that use the facilities and services
5 associated with such costs. Such costs shall include the costs
6 of owning, operating and maintaining transmission and
7 distribution facilities. The Commission shall also be
8 authorized to consider whether, and if so to what extent, the
9 following costs are appropriately included in the electric
10 utility's delivery services rates: (i) the costs of that
11 portion of generation facilities used for the production and
12 absorption of reactive power in order that retail customers
13 located in the electric utility's service area can receive
14 electric power and energy from suppliers other than the
15 electric utility, and (ii) the costs associated with the use
16 and redispatch of generation facilities to mitigate
17 constraints on the transmission or distribution system in order
18 that retail customers located in the electric utility's service
19 area can receive electric power and energy from suppliers other
20 than the electric utility. Nothing in this subsection shall be
21 construed as directing the Commission to allocate any of the
22 costs described in (i) or (ii) that are found to be
23 appropriately included in the electric utility's delivery
24 services rates to any particular customer group or geographic
25 area in setting delivery services rates.

26 (d) The Commission shall establish charges, terms and

1 conditions for delivery services that are just and reasonable
2 and shall take into account customer impacts when establishing
3 such charges. In establishing charges, terms and conditions for
4 delivery services, the Commission shall take into account
5 voltage level differences. A retail customer shall have the
6 option to request to purchase electric service at any delivery
7 service voltage reasonably and technically feasible from the
8 electric facilities serving that customer's premises provided
9 that there are no significant adverse impacts upon system
10 reliability or system efficiency. A retail customer shall also
11 have the option to request to purchase electric service at any
12 point of delivery that is reasonably and technically feasible
13 provided that there are no significant adverse impacts on
14 system reliability or efficiency. Such requests shall not be
15 unreasonably denied.

16 (e) Electric utilities shall recover the costs of
17 installing, operating or maintaining facilities for the
18 particular benefit of one or more delivery services customers,
19 including without limitation any costs incurred in complying
20 with a customer's request to be served at a different voltage
21 level, directly from the retail customer or customers for whose
22 benefit the costs were incurred, to the extent such costs are
23 not recovered through the charges referred to in subsections
24 (c) and (d) of this Section.

25 (f) An electric utility shall be entitled but not required
26 to implement transition charges in conjunction with the

1 offering of delivery services pursuant to Section 16-104. If an
2 electric utility implements transition charges, it shall
3 implement such charges for all delivery services customers and
4 for all customers described in subsection (h), but shall not
5 implement transition charges for power and energy that a retail
6 customer takes from cogeneration or self-generation facilities
7 located on that retail customer's premises, if such facilities
8 meet the following criteria:

9 (i) the cogeneration or self-generation facilities
10 serve a single retail customer and are located on that
11 retail customer's premises (for purposes of this
12 subparagraph and subparagraph (ii), an industrial or
13 manufacturing retail customer and a third party contractor
14 that is served by such industrial or manufacturing customer
15 through such retail customer's own electrical distribution
16 facilities under the circumstances described in subsection
17 (vi) of the definition of "alternative retail electric
18 supplier" set forth in Section 16-102, shall be considered
19 a single retail customer);

20 (ii) the cogeneration or self-generation facilities
21 either (A) are sized pursuant to generally accepted
22 engineering standards for the retail customer's electrical
23 load at that premises (taking into account standby or other
24 reliability considerations related to that retail
25 customer's operations at that site) or (B) if the facility
26 is a cogeneration facility located on the retail customer's

1 premises, the retail customer is the thermal host for that
2 facility and the facility has been designed to meet that
3 retail customer's thermal energy requirements resulting in
4 electrical output beyond that retail customer's electrical
5 demand at that premises, comply with the operating and
6 efficiency standards applicable to "qualifying facilities"
7 specified in title 18 Code of Federal Regulations Section
8 292.205 as in effect on the effective date of this
9 amendatory Act of 1999;

10 (iii) the retail customer on whose premises the
11 facilities are located either has an exclusive right to
12 receive, and corresponding obligation to pay for, all of
13 the electrical capacity of the facility, or in the case of
14 a cogeneration facility that has been designed to meet the
15 retail customer's thermal energy requirements at that
16 premises, an identified amount of the electrical capacity
17 of the facility, over a minimum 5-year period; and

18 (iv) if the cogeneration facility is sized for the
19 retail customer's thermal load at that premises but exceeds
20 the electrical load, any sales of excess power or energy
21 are made only at wholesale, are subject to the jurisdiction
22 of the Federal Energy Regulatory Commission, and are not
23 for the purpose of circumventing the provisions of this
24 subsection (f).

25 If a generation facility located at a retail customer's
26 premises does not meet the above criteria, an electric utility

1 implementing transition charges shall implement a transition
2 charge until December 31, 2006 for any power and energy taken
3 by such retail customer from such facility as if such power and
4 energy had been delivered by the electric utility. Provided,
5 however, that an industrial retail customer that is taking
6 power from a generation facility that does not meet the above
7 criteria but that is located on such customer's premises will
8 not be subject to a transition charge for the power and energy
9 taken by such retail customer from such generation facility if
10 the facility does not serve any other retail customer and
11 either was installed on behalf of the customer and for its own
12 use prior to January 1, 1997, or is both predominantly fueled
13 by byproducts of such customer's manufacturing process at such
14 premises and sells or offers an average of 300 megawatts or
15 more of electricity produced from such generation facility into
16 the wholesale market. Such charges shall be calculated as
17 provided in Section 16-102, and shall be collected on each
18 kilowatt-hour delivered under a delivery services tariff to a
19 retail customer from the date the customer first takes delivery
20 services until December 31, 2006 except as provided in
21 subsection (h) of this Section. Provided, however, that an
22 electric utility, other than an electric utility providing
23 service to at least 1,000,000 customers in this State on
24 January 1, 1999, shall be entitled to petition for entry of an
25 order by the Commission authorizing the electric utility to
26 implement transition charges for an additional period ending no

1 later than December 31, 2008. The electric utility shall file
2 its petition with supporting evidence no earlier than 16
3 months, and no later than 12 months, prior to December 31,
4 2006. The Commission shall hold a hearing on the electric
5 utility's petition and shall enter its order no later than 8
6 months after the petition is filed. The Commission shall
7 determine whether and to what extent the electric utility shall
8 be authorized to implement transition charges for an additional
9 period. The Commission may authorize the electric utility to
10 implement transition charges for some or all of the additional
11 period, and shall determine the mitigation factors to be used
12 in implementing such transition charges; provided, that the
13 Commission shall not authorize mitigation factors less than
14 110% of those in effect during the 12 months ended December 31,
15 2006. In making its determination, the Commission shall
16 consider the following factors: the necessity to implement
17 transition charges for an additional period in order to
18 maintain the financial integrity of the electric utility; the
19 prudence of the electric utility's actions in reducing its
20 costs since the effective date of this amendatory Act of 1997;
21 the ability of the electric utility to provide safe, adequate
22 and reliable service to retail customers in its service area;
23 and the impact on competition of allowing the electric utility
24 to implement transition charges for the additional period.

25 (g) The electric utility shall file tariffs that establish
26 the transition charges to be paid by each class of customers to

1 the electric utility in conjunction with the provision of
2 delivery services. The electric utility's tariffs shall define
3 the classes of its customers for purposes of calculating
4 transition charges. The electric utility's tariffs shall
5 provide for the calculation of transition charges on a
6 customer-specific basis for any retail customer whose average
7 monthly maximum electrical demand on the electric utility's
8 system during the 6 months with the customer's highest monthly
9 maximum electrical demands equals or exceeds 3.0 megawatts for
10 electric utilities having more than 1,000,000 customers, and
11 for other electric utilities for any customer that has an
12 average monthly maximum electrical demand on the electric
13 utility's system of one megawatt or more, and (A) for which
14 there exists data on the customer's usage during the 3 years
15 preceding the date that the customer became eligible to take
16 delivery services, or (B) for which there does not exist data
17 on the customer's usage during the 3 years preceding the date
18 that the customer became eligible to take delivery services, if
19 in the electric utility's reasonable judgment there exists
20 comparable usage information or a sufficient basis to develop
21 such information, and further provided that the electric
22 utility can require customers for which an individual
23 calculation is made to sign contracts that set forth the
24 transition charges to be paid by the customer to the electric
25 utility pursuant to the tariff.

26 (h) An electric utility shall also be entitled to file

1 tariffs that allow it to collect transition charges from retail
2 customers in the electric utility's service area that do not
3 take delivery services but that take electric power or energy
4 from an alternative retail electric supplier or from an
5 electric utility other than the electric utility in whose
6 service area the customer is located. Such charges shall be
7 calculated, in accordance with the definition of transition
8 charges in Section 16-102, for the period of time that the
9 customer would be obligated to pay transition charges if it
10 were taking delivery services, except that no deduction for
11 delivery services revenues shall be made in such calculation,
12 and usage data from the customer's class shall be used where
13 historical usage data is not available for the individual
14 customer. The customer shall be obligated to pay such charges
15 on a lump sum basis on or before the date on which the customer
16 commences to take service from the alternative retail electric
17 supplier or other electric utility, provided, that the electric
18 utility in whose service area the customer is located shall
19 offer the customer the option of signing a contract pursuant to
20 which the customer pays such charges ratably over the period in
21 which the charges would otherwise have applied.

22 (i) An electric utility shall be entitled to add to the
23 bills of delivery services customers charges pursuant to
24 Sections 9-221, 9-222 (except as provided in Section 9-222.1),
25 and Section 16-114 of this Act, Section 5-5 of the Electricity
26 Infrastructure Maintenance Fee Law, Section 6-5 of the

1 Renewable Energy, Energy Efficiency, and Coal Resources
2 Development Law of 1997, and Section 13 of the Energy
3 Assistance Act.

4 (j) If a retail customer that obtains electric power and
5 energy from cogeneration or self-generation facilities
6 installed for its own use on or before January 1, 1997,
7 subsequently takes service from an alternative retail electric
8 supplier or an electric utility other than the electric utility
9 in whose service area the customer is located for any portion
10 of the customer's electric power and energy requirements
11 formerly obtained from those facilities (including that amount
12 purchased from the utility in lieu of such generation and not
13 as standby power purchases, under a cogeneration displacement
14 tariff in effect as of the effective date of this amendatory
15 Act of 1997), the transition charges otherwise applicable
16 pursuant to subsections (f), (g), or (h) of this Section shall
17 not be applicable in any year to that portion of the customer's
18 electric power and energy requirements formerly obtained from
19 those facilities, provided, that for purposes of this
20 subsection (j), such portion shall not exceed the average
21 number of kilowatt-hours per year obtained from the
22 cogeneration or self-generation facilities during the 3 years
23 prior to the date on which the customer became eligible for
24 delivery services, except as provided in subsection (f) of
25 Section 16-110.

26 (k) The electric utility shall be entitled to recover

1 through tariffed charges all of the costs associated with the
2 purchase of zero emission credits from zero emission facilities
3 to meet the requirements of subsection (d-5) of Section 1-75 of
4 the Illinois Power Agency Act. Such costs shall include the
5 costs of procuring the zero emission credits, as well as the
6 reasonable costs that the utility incurs as part of the
7 procurement processes and to implement and comply with plans
8 and processes approved by the Commission under such subsection
9 (d-5). The costs shall be allocated across all retail customers
10 through a single, uniform cents per kilowatt-hour charge
11 applicable to all retail customers, which shall appear as a
12 separate line item on each customer's bill. Beginning June 1,
13 2017, the electric utility shall be entitled to recover through
14 tariffed charges all of the costs associated with the purchase
15 of renewable energy resources to meet the renewable energy
16 resource standards of subsection (c) of Section 1-75 of the
17 Illinois Power Agency Act, under procurement plans as approved
18 in accordance with that Section and Section 16-111.5 of this
19 Act. Such costs shall include the costs of procuring the
20 renewable energy resources, as well as the reasonable costs
21 that the utility incurs as part of the procurement processes
22 and to implement and comply with plans and processes approved
23 by the Commission under such Sections. The costs associated
24 with the purchase of renewable energy resources shall be
25 allocated across all retail customers in proportion to the
26 amount of renewable energy resources the utility procures for

1 such customers through a single, uniform cents per
2 kilowatt-hour charge applicable to such retail customers,
3 which shall appear as a separate line item on each such
4 customer's bill.

5 Notwithstanding whether the Commission has approved the
6 initial long-term renewable resources procurement plan as of
7 June 1, 2017, an electric utility shall place new tariffed
8 charges into effect beginning with the June 2017 monthly
9 billing period, to the extent practicable, to begin recovering
10 the costs of procuring renewable energy resources, as those
11 charges are calculated under the limitations described in
12 subparagraph (E) of paragraph (1) of subsection (c) of Section
13 1-75 of the Illinois Power Agency Act. Notwithstanding the date
14 on which the utility places such new tariffed charges into
15 effect, the utility shall be permitted to collect the charges
16 under such tariff as if the tariff had been in effect beginning
17 with the first day of the June 2017 monthly billing period. For
18 the delivery years commencing June 1, 2017, June 1, 2018, and
19 June 1, 2019, the electric utility shall deposit into a
20 separate interest bearing account of a financial institution
21 the monies collected under the tariffed charges. Any interest
22 earned shall be credited back to retail customers under the
23 reconciliation proceeding provided for in this subsection (k),
24 provided that the electric utility shall first be reimbursed
25 from the interest for the administrative costs that it incurs
26 to administer and manage the account. Any taxes due on the

1 funds in the account, or interest earned on it, will be paid
2 from the account or, if insufficient monies are available in
3 the account, from the monies collected under the tariffed
4 charges to recover the costs of procuring renewable energy
5 resources. Monies deposited in the account shall be subject to
6 the review, reconciliation, and true-up process described in
7 this subsection (k) that is applicable to the funds collected
8 and costs incurred for the procurement of renewable energy
9 resources.

10 The electric utility shall be entitled to recover all of
11 the costs identified in this subsection (k) through automatic
12 adjustment clause tariffs applicable to all of the utility's
13 retail customers that allow the electric utility to adjust its
14 tariffed charges consistent with this subsection (k). The
15 determination as to whether any excess funds were collected
16 during a given delivery year for the purchase of renewable
17 energy resources, and the crediting of any excess funds back to
18 retail customers, shall not be made until after the close of
19 the delivery year, which will ensure that the maximum amount of
20 funds is available to implement the approved long-term
21 renewable resources procurement plan during a given delivery
22 year. The electric utility's collections under such automatic
23 adjustment clause tariffs to recover the costs of renewable
24 energy resources and zero emission credits from zero emission
25 facilities shall be subject to separate annual review,
26 reconciliation, and true-up against actual costs by the

1 Commission under a procedure that shall be specified in the
2 electric utility's automatic adjustment clause tariffs and
3 that shall be approved by the Commission in connection with its
4 approval of such tariffs. The procedure shall provide that any
5 difference between the electric utility's collections under
6 the automatic adjustment charges for an annual period and the
7 electric utility's actual costs of renewable energy resources
8 and zero emission credits from zero emission facilities for
9 that same annual period shall be refunded to or collected from,
10 as applicable, the electric utility's retail customers in
11 subsequent periods.

12 Nothing in this subsection (k) is intended to affect,
13 limit, or change the right of the electric utility to recover
14 the costs associated with the procurement of renewable energy
15 resources for periods commencing before, on, or after June 1,
16 2017, as otherwise provided in the Illinois Power Agency Act.

17 Notwithstanding anything to the contrary, the Commission
18 shall not conduct an annual review, reconciliation, and true-up
19 associated with renewable energy resources' collections and
20 costs for the delivery years commencing June 1, 2017, June 1,
21 2018, June 1, 2019, and June 1, 2020, and shall instead conduct
22 a single review, reconciliation, and true-up associated with
23 renewable energy resources' collections and costs for the
24 4-year period beginning June 1, 2017 and ending May 31, 2021,
25 provided that the review, reconciliation, and true-up shall not
26 be initiated until after August 31, 2021. During the 4-year

1 period, the utility shall be permitted to collect and retain
2 funds under this subsection (k) and to purchase renewable
3 energy resources under an approved long-term renewable
4 resources procurement plan using those funds regardless of the
5 delivery year in which the funds were collected during the
6 4-year period.

7 If the amount of funds collected during the delivery year
8 commencing June 1, 2017, exceeds the costs incurred during that
9 delivery year, then up to half of this excess amount, as
10 calculated on June 1, 2018, may be used to fund the programs
11 under subsection (b) of Section 1-56 of the Illinois Power
12 Agency Act in the same proportion the programs are funded under
13 that subsection (b). However, any amount identified under this
14 subsection (k) to fund programs under subsection (b) of Section
15 1-56 of the Illinois Power Agency Act shall be reduced if it
16 exceeds the funding shortfall. For purposes of this Section,
17 "funding shortfall" means the difference between \$200,000,000
18 and the amount appropriated by the General Assembly to the
19 Illinois Power Agency Renewable Energy Resources Fund during
20 the period that commences on the effective date of this
21 amendatory act of the 99th General Assembly and ends on August
22 1, 2018.

23 If the amount of funds collected during the delivery year
24 commencing June 1, 2018, exceeds the costs incurred during that
25 delivery year, then up to half of this excess amount, as
26 calculated on June 1, 2019, may be used to fund the programs

1 under subsection (b) of Section 1-56 of the Illinois Power
2 Agency Act in the same proportion the programs are funded under
3 that subsection (b). However, any amount identified under this
4 subsection (k) to fund programs under subsection (b) of Section
5 1-56 of the Illinois Power Agency Act shall be reduced if it
6 exceeds the funding shortfall.

7 If the amount of funds collected during the delivery year
8 commencing June 1, 2019, exceeds the costs incurred during that
9 delivery year, then up to half of this excess amount, as
10 calculated on June 1, 2020, may be used to fund the programs
11 under subsection (b) of Section 1-56 of the Illinois Power
12 Agency Act in the same proportion the programs are funded under
13 that subsection (b). However, any amount identified under this
14 subsection (k) to fund programs under subsection (b) of Section
15 1-56 of the Illinois Power Agency Act shall be reduced if it
16 exceeds the funding shortfall.

17 The funding available under this subsection (k), if any,
18 for the programs described under subsection (b) of Section 1-56
19 of the Illinois Power Agency Act shall not reduce the amount of
20 funding for the programs described in subparagraph (O) of
21 paragraph (1) of subsection (c) of Section 1-75 of the Illinois
22 Power Agency Act. If funding is available under this subsection
23 (k) for programs described under subsection (b) of Section 1-56
24 of the Illinois Power Agency Act, then the long-term renewable
25 resources plan shall provide for the Agency to procure
26 contracts in an amount that does not exceed the funding, and

1 the contracts approved by the Commission shall be executed by
2 the applicable utility or utilities.

3 (1) A utility that has terminated any contract executed
4 under subsection (d-5) of Section 1-75 of the Illinois Power
5 Agency Act shall be entitled to recover any remaining balance
6 associated with the purchase of zero emission credits prior to
7 such termination, and such utility shall also apply a credit to
8 its retail customer bills in the event of any over-collection.

9 (m) (1) An electric utility that recovers its costs of
10 procuring zero emission credits from zero emission
11 facilities through a cents-per-kilowatthour charge under
12 to subsection (k) of this Section shall be subject to the
13 requirements of this subsection (m). Notwithstanding
14 anything to the contrary, such electric utility shall,
15 beginning on April 30, 2018, and each April 30 thereafter
16 until April 30, 2026, calculate whether any reduction must
17 be applied to such cents-per-kilowatthour charge that is
18 paid by retail customers of the electric utility that are
19 exempt from subsections (a) through (j) of Section 8-103B
20 of this Act under subsection (l) of Section 8-103B. Such
21 charge shall be reduced for such customers for the next
22 delivery year commencing on June 1 based on the amount
23 necessary, if any, to limit the annual estimated average
24 net increase for the prior calendar year due to the future
25 energy investment costs to no more than 1.3% of 5.98 cents
26 per kilowatt-hour, which is the average amount paid per

1 kilowatthour for electric service during the year ending
2 December 31, 2015 by Illinois industrial retail customers,
3 as reported to the Edison Electric Institute.

4 The calculations required by this subsection (m) shall
5 be made only once for each year, and no subsequent rate
6 impact determinations shall be made.

7 (2) For purposes of this Section, "future energy
8 investment costs" shall be calculated by subtracting the
9 cents-per-kilowatthour charge identified in subparagraph
10 (A) of this paragraph (2) from the sum of the
11 cents-per-kilowatthour charges identified in subparagraph
12 (B) of this paragraph (2):

13 (A) The cents-per-kilowatthour charge identified
14 in the electric utility's tariff placed into effect
15 under Section 8-103 of the Public Utilities Act that,
16 on December 1, 2016, was applicable to those retail
17 customers that are exempt from subsections (a) through
18 (j) of Section 8-103B of this Act under subsection (1)
19 of Section 8-103B.

20 (B) The sum of the following
21 cents-per-kilowatthour charges applicable to those
22 retail customers that are exempt from subsections (a)
23 through (j) of Section 8-103B of this Act under
24 subsection (1) of Section 8-103B, provided that if one
25 or more of the following charges has been in effect and
26 applied to such customers for more than one calendar

1 year, then each charge shall be equal to the average of
2 the charges applied over a period that commences with
3 the calendar year ending December 31, 2017 and ends
4 with the most recently completed calendar year prior to
5 the calculation required by this subsection (m):

6 (i) the cents-per-kilowatthour charge to
7 recover the costs incurred by the utility under
8 subsection (d-5) of Section 1-75 of the Illinois
9 Power Agency Act, adjusted for any reductions
10 required under this subsection (m); and

11 (ii) the cents-per-kilowatthour charge to
12 recover the costs incurred by the utility under
13 Section 16-107.6 of the Public Utilities Act.

14 If no charge was applied for a given calendar year
15 under item (i) or (ii) of this subparagraph (B), then
16 the value of the charge for that year shall be zero.

17 (3) If a reduction is required by the calculation
18 performed under this subsection (m), then the amount of the
19 reduction shall be multiplied by the number of years
20 reflected in the averages calculated under subparagraph
21 (B) of paragraph (2) of this subsection (m). Such reduction
22 shall be applied to the cents-per-kilowatthour charge that
23 is applicable to those retail customers that are exempt
24 from subsections (a) through (j) of Section 8-103B of this
25 Act under subsection (1) of Section 8-103B beginning with
26 the next delivery year commencing after the date of the

1 calculation required by this subsection (m).

2 (4) The electric utility shall file a notice with the
3 Commission on May 1 of 2018 and each May 1 thereafter until
4 May 1, 2026 containing the reduction, if any, which must be
5 applied for the delivery year which begins in the year of
6 the filing. The notice shall contain the calculations made
7 pursuant to this section. By October 1 of each year
8 beginning in 2018, each electric utility shall notify the
9 Commission if it appears, based on an estimate of the
10 calculation required in this subsection (m), that a
11 reduction will be required in the next year.

12 (Source: P.A. 91-50, eff. 6-30-99; 92-690, eff. 7-18-02.)

13 (220 ILCS 5/16-108.5)

14 Sec. 16-108.5. Infrastructure investment and
15 modernization; regulatory reform.

16 (a) (Blank).

17 (b) For purposes of this Section, "participating utility"
18 means an electric utility or a combination utility serving more
19 than 1,000,000 customers in Illinois that voluntarily elects
20 and commits to undertake (i) the infrastructure investment
21 program consisting of the commitments and obligations
22 described in this subsection (b) and (ii) the customer
23 assistance program consisting of the commitments and
24 obligations described in subsection (b-10) of this Section,
25 notwithstanding any other provisions of this Act and without

1 obtaining any approvals from the Commission or any other agency
2 other than as set forth in this Section, regardless of whether
3 any such approval would otherwise be required. "Combination
4 utility" means a utility that, as of January 1, 2011, provided
5 electric service to at least one million retail customers in
6 Illinois and gas service to at least 500,000 retail customers
7 in Illinois. A participating utility shall recover the
8 expenditures made under the infrastructure investment program
9 through the ratemaking process, including, but not limited to,
10 the performance-based formula rate and process set forth in
11 this Section.

12 During the infrastructure investment program's peak
13 program year, a participating utility other than a combination
14 utility shall create 2,000 full-time equivalent jobs in
15 Illinois, and a participating utility that is a combination
16 utility shall create 450 full-time equivalent jobs in Illinois
17 related to the provision of electric service. These jobs shall
18 include direct jobs, contractor positions, and induced jobs,
19 but shall not include any portion of a job commitment, not
20 specifically contingent on an amendatory Act of the 97th
21 General Assembly becoming law, between a participating utility
22 and a labor union that existed on December 30, 2011 (the
23 effective date of Public Act 97-646) and that has not yet been
24 fulfilled. A portion of the full-time equivalent jobs created
25 by each participating utility shall include incremental
26 personnel hired subsequent to December 30, 2011 (the effective

1 date of Public Act 97-646). For purposes of this Section, "peak
2 program year" means the consecutive 12-month period with the
3 highest number of full-time equivalent jobs that occurs between
4 the beginning of investment year 2 and the end of investment
5 year 4.

6 A participating utility shall meet one of the following
7 commitments, as applicable:

8 (1) Beginning no later than 180 days after a
9 participating utility other than a combination utility
10 files a performance-based formula rate tariff pursuant to
11 subsection (c) of this Section, or, beginning no later than
12 January 1, 2012 if such utility files such
13 performance-based formula rate tariff within 14 days of
14 October 26, 2011 (the effective date of Public Act 97-616),
15 the participating utility shall, except as provided in
16 subsection (b-5):

17 (A) over a 5-year period, invest an estimated
18 \$1,300,000,000 in electric system upgrades,
19 modernization projects, and training facilities,
20 including, but not limited to:

21 (i) distribution infrastructure improvements
22 totaling an estimated \$1,000,000,000, including
23 underground residential distribution cable
24 injection and replacement and mainline cable
25 system refurbishment and replacement projects;

26 (ii) training facility construction or upgrade

1 projects totaling an estimated \$10,000,000,
2 provided that, at a minimum, one such facility
3 shall be located in a municipality having a
4 population of more than 2 million residents and one
5 such facility shall be located in a municipality
6 having a population of more than 150,000 residents
7 but fewer than 170,000 residents; any such new
8 facility located in a municipality having a
9 population of more than 2 million residents must be
10 designed for the purpose of obtaining, and the
11 owner of the facility shall apply for,
12 certification under the United States Green
13 Building Council's Leadership in Energy Efficiency
14 Design Green Building Rating System;

15 (iii) wood pole inspection, treatment, and
16 replacement programs;

17 (iv) an estimated \$200,000,000 for reducing
18 the susceptibility of certain circuits to
19 storm-related damage, including, but not limited
20 to, high winds, thunderstorms, and ice storms;
21 improvements may include, but are not limited to,
22 overhead to underground conversion and other
23 engineered outcomes for circuits; the
24 participating utility shall prioritize the
25 selection of circuits based on each circuit's
26 historical susceptibility to storm-related damage

1 and the ability to provide the greatest customer
2 benefit upon completion of the improvements; to be
3 eligible for improvement, the participating
4 utility's ability to maintain proper tree
5 clearances surrounding the overhead circuit must
6 not have been impeded by third parties; and

7 (B) over a 10-year period, invest an estimated
8 \$1,300,000,000 to upgrade and modernize its
9 transmission and distribution infrastructure and in
10 Smart Grid electric system upgrades, including, but
11 not limited to:

12 (i) additional smart meters;

13 (ii) distribution automation;

14 (iii) associated cyber secure data
15 communication network; and

16 (iv) substation micro-processor relay
17 upgrades.

18 (2) Beginning no later than 180 days after a
19 participating utility that is a combination utility files a
20 performance-based formula rate tariff pursuant to
21 subsection (c) of this Section, or, beginning no later than
22 January 1, 2012 if such utility files such
23 performance-based formula rate tariff within 14 days of
24 October 26, 2011 (the effective date of Public Act 97-616),
25 the participating utility shall, except as provided in
26 subsection (b-5):

1 (A) over a 10-year period, invest an estimated
2 \$265,000,000 in electric system upgrades,
3 modernization projects, and training facilities,
4 including, but not limited to:

5 (i) distribution infrastructure improvements
6 totaling an estimated \$245,000,000, which may
7 include bulk supply substations, transformers,
8 reconductoring, and rebuilding overhead
9 distribution and sub-transmission lines,
10 underground residential distribution cable
11 injection and replacement and mainline cable
12 system refurbishment and replacement projects;

13 (ii) training facility construction or upgrade
14 projects totaling an estimated \$1,000,000; any
15 such new facility must be designed for the purpose
16 of obtaining, and the owner of the facility shall
17 apply for, certification under the United States
18 Green Building Council's Leadership in Energy
19 Efficiency Design Green Building Rating System;
20 and

21 (iii) wood pole inspection, treatment, and
22 replacement programs; and

23 (B) over a 10-year period, invest an estimated
24 \$360,000,000 to upgrade and modernize its transmission
25 and distribution infrastructure and in Smart Grid
26 electric system upgrades, including, but not limited

1 to:

- 2 (i) additional smart meters;
3 (ii) distribution automation;
4 (iii) associated cyber secure data
5 communication network; and
6 (iv) substation micro-processor relay
7 upgrades.

8 For purposes of this Section, "Smart Grid electric system
9 upgrades" shall have the meaning set forth in subsection (a) of
10 Section 16-108.6 of this Act.

11 The investments in the infrastructure investment program
12 described in this subsection (b) shall be incremental to the
13 participating utility's annual capital investment program, as
14 defined by, for purposes of this subsection (b), the
15 participating utility's average capital spend for calendar
16 years 2008, 2009, and 2010 as reported in the applicable
17 Federal Energy Regulatory Commission (FERC) Form 1; provided
18 that where one or more utilities have merged, the average
19 capital spend shall be determined using the aggregate of the
20 merged utilities' capital spend reported in FERC Form 1 for the
21 years 2008, 2009, and 2010. A participating utility may add
22 reasonable construction ramp-up and ramp-down time to the
23 investment periods specified in this subsection (b). For each
24 such investment period, the ramp-up and ramp-down time shall
25 not exceed a total of 6 months.

26 Within 60 days after filing a tariff under subsection (c)

1 of this Section, a participating utility shall submit to the
2 Commission its plan, including scope, schedule, and staffing,
3 for satisfying its infrastructure investment program
4 commitments pursuant to this subsection (b). The submitted plan
5 shall include a schedule and staffing plan for the next
6 calendar year. The plan shall also include a plan for the
7 creation, operation, and administration of a Smart Grid test
8 bed as described in subsection (c) of Section 16-108.8. The
9 plan need not allocate the work equally over the respective
10 periods, but should allocate material increments throughout
11 such periods commensurate with the work to be undertaken. No
12 later than April 1 of each subsequent year, the utility shall
13 submit to the Commission a report that includes any updates to
14 the plan, a schedule for the next calendar year, the
15 expenditures made for the prior calendar year and cumulatively,
16 and the number of full-time equivalent jobs created for the
17 prior calendar year and cumulatively. If the utility is
18 materially deficient in satisfying a schedule or staffing plan,
19 then the report must also include a corrective action plan to
20 address the deficiency. The fact that the plan, implementation
21 of the plan, or a schedule changes shall not imply the
22 imprudence or unreasonableness of the infrastructure
23 investment program, plan, or schedule. Further, no later than
24 45 days following the last day of the first, second, and third
25 quarters of each year of the plan, a participating utility
26 shall submit to the Commission a verified quarterly report for

1 the prior quarter that includes (i) the total number of
2 full-time equivalent jobs created during the prior quarter,
3 (ii) the total number of employees as of the last day of the
4 prior quarter, (iii) the total number of full-time equivalent
5 hours in each job classification or job title, (iv) the total
6 number of incremental employees and contractors in support of
7 the investments undertaken pursuant to this subsection (b) for
8 the prior quarter, and (v) any other information that the
9 Commission may require by rule.

10 With respect to the participating utility's peak job
11 commitment, if, after considering the utility's corrective
12 action plan and compliance thereunder, the Commission enters an
13 order finding, after notice and hearing, that a participating
14 utility did not satisfy its peak job commitment described in
15 this subsection (b) for reasons that are reasonably within its
16 control, then the Commission shall also determine, after
17 consideration of the evidence, including, but not limited to,
18 evidence submitted by the Department of Commerce and Economic
19 Opportunity and the utility, the deficiency in the number of
20 full-time equivalent jobs during the peak program year due to
21 such failure. The Commission shall notify the Department of any
22 proceeding that is initiated pursuant to this paragraph. For
23 each full-time equivalent job deficiency during the peak
24 program year that the Commission finds as set forth in this
25 paragraph, the participating utility shall, within 30 days
26 after the entry of the Commission's order, pay \$6,000 to a fund

1 for training grants administered under Section 605-800 of the
2 Department of Commerce and Economic Opportunity Law, which
3 shall not be a recoverable expense.

4 With respect to the participating utility's investment
5 amount commitments, if, after considering the utility's
6 corrective action plan and compliance thereunder, the
7 Commission enters an order finding, after notice and hearing,
8 that a participating utility is not satisfying its investment
9 amount commitments described in this subsection (b), then the
10 utility shall no longer be eligible to annually update the
11 performance-based formula rate tariff pursuant to subsection
12 (d) of this Section. In such event, the then current rates
13 shall remain in effect until such time as new rates are set
14 pursuant to Article IX of this Act, subject to retroactive
15 adjustment, with interest, to reconcile rates charged with
16 actual costs.

17 If the Commission finds that a participating utility is no
18 longer eligible to update the performance-based formula rate
19 tariff pursuant to subsection (d) of this Section, or the
20 performance-based formula rate is otherwise terminated, then
21 the participating utility's voluntary commitments and
22 obligations under this subsection (b) shall immediately
23 terminate, except for the utility's obligation to pay an amount
24 already owed to the fund for training grants pursuant to a
25 Commission order.

26 In meeting the obligations of this subsection (b), to the

1 extent feasible and consistent with State and federal law, the
2 investments under the infrastructure investment program should
3 provide employment opportunities for all segments of the
4 population and workforce, including minority-owned and
5 female-owned business enterprises, and shall not, consistent
6 with State and federal law, discriminate based on race or
7 socioeconomic status.

8 (b-5) Nothing in this Section shall prohibit the Commission
9 from investigating the prudence and reasonableness of the
10 expenditures made under the infrastructure investment program
11 during the annual review required by subsection (d) of this
12 Section and shall, as part of such investigation, determine
13 whether the utility's actual costs under the program are
14 prudent and reasonable. The fact that a participating utility
15 invests more than the minimum amounts specified in subsection
16 (b) of this Section or its plan shall not imply imprudence or
17 unreasonableness.

18 If the participating utility finds that it is implementing
19 its plan for satisfying the infrastructure investment program
20 commitments described in subsection (b) of this Section at a
21 cost below the estimated amounts specified in subsection (b) of
22 this Section, then the utility may file a petition with the
23 Commission requesting that it be permitted to satisfy its
24 commitments by spending less than the estimated amounts
25 specified in subsection (b) of this Section. The Commission
26 shall, after notice and hearing, enter its order approving, or

1 approving as modified, or denying each such petition within 150
2 days after the filing of the petition.

3 In no event, absent General Assembly approval, shall the
4 capital investment costs incurred by a participating utility
5 other than a combination utility in satisfying its
6 infrastructure investment program commitments described in
7 subsection (b) of this Section exceed \$3,000,000,000 or, for a
8 participating utility that is a combination utility,
9 \$720,000,000. If the participating utility's updated cost
10 estimates for satisfying its infrastructure investment program
11 commitments described in subsection (b) of this Section exceed
12 the limitation imposed by this subsection (b-5), then it shall
13 submit a report to the Commission that identifies the increased
14 costs and explains the reason or reasons for the increased
15 costs no later than the year in which the utility estimates it
16 will exceed the limitation. The Commission shall review the
17 report and shall, within 90 days after the participating
18 utility files the report, report to the General Assembly its
19 findings regarding the participating utility's report. If the
20 General Assembly does not amend the limitation imposed by this
21 subsection (b-5), then the utility may modify its plan so as
22 not to exceed the limitation imposed by this subsection (b-5)
23 and may propose corresponding changes to the metrics
24 established pursuant to subparagraphs (5) through (8) of
25 subsection (f) of this Section, and the Commission may modify
26 the metrics and incremental savings goals established pursuant

1 to subsection (f) of this Section accordingly.

2 (b-10) All participating utilities shall make
3 contributions for an energy low-income and support program in
4 accordance with this subsection. Beginning no later than 180
5 days after a participating utility files a performance-based
6 formula rate tariff pursuant to subsection (c) of this Section,
7 or beginning no later than January 1, 2012 if such utility
8 files such performance-based formula rate tariff within 14 days
9 of December 30, 2011 (the effective date of Public Act 97-646),
10 and without obtaining any approvals from the Commission or any
11 other agency other than as set forth in this Section,
12 regardless of whether any such approval would otherwise be
13 required, a participating utility other than a combination
14 utility shall pay \$10,000,000 per year for 5 years and a
15 participating utility that is a combination utility shall pay
16 \$1,000,000 per year for 10 years to the energy low-income and
17 support program, which is intended to fund customer assistance
18 programs with the primary purpose being avoidance of imminent
19 disconnection. Such programs may include:

20 (1) a residential hardship program that may partner
21 with community-based organizations, including senior
22 citizen organizations, and provides grants to low-income
23 residential customers, including low-income senior
24 citizens, who demonstrate a hardship;

25 (2) a program that provides grants and other bill
26 payment concessions to veterans with disabilities who

1 demonstrate a hardship and members of the armed services or
2 reserve forces of the United States or members of the
3 Illinois National Guard who are on active duty pursuant to
4 an executive order of the President of the United States,
5 an act of the Congress of the United States, or an order of
6 the Governor and who demonstrate a hardship;

7 (3) a budget assistance program that provides tools and
8 education to low-income senior citizens to assist them with
9 obtaining information regarding energy usage and effective
10 means of managing energy costs;

11 (4) a non-residential special hardship program that
12 provides grants to non-residential customers such as small
13 businesses and non-profit organizations that demonstrate a
14 hardship, including those providing services to senior
15 citizen and low-income customers; and

16 (5) a performance-based assistance program that
17 provides grants to encourage residential customers to make
18 on-time payments by matching a portion of the customer's
19 payments or providing credits towards arrearages.

20 The payments made by a participating utility pursuant to
21 this subsection (b-10) shall not be a recoverable expense. A
22 participating utility may elect to fund either new or existing
23 customer assistance programs, including, but not limited to,
24 those that are administered by the utility.

25 Programs that use funds that are provided by a
26 participating utility to reduce utility bills may be

1 implemented through tariffs that are filed with and reviewed by
2 the Commission. If a utility elects to file tariffs with the
3 Commission to implement all or a portion of the programs, those
4 tariffs shall, regardless of the date actually filed, be deemed
5 accepted and approved, and shall become effective on December
6 30, 2011 (the effective date of Public Act 97-646). The
7 participating utilities whose customers benefit from the funds
8 that are disbursed as contemplated in this Section shall file
9 annual reports documenting the disbursement of those funds with
10 the Commission. The Commission has the authority to audit
11 disbursement of the funds to ensure they were disbursed
12 consistently with this Section.

13 If the Commission finds that a participating utility is no
14 longer eligible to update the performance-based formula rate
15 tariff pursuant to subsection (d) of this Section, or the
16 performance-based formula rate is otherwise terminated, then
17 the participating utility's voluntary commitments and
18 obligations under this subsection (b-10) shall immediately
19 terminate.

20 (c) A participating utility may elect to recover its
21 delivery services costs through a performance-based formula
22 rate approved by the Commission, which shall specify the cost
23 components that form the basis of the rate charged to customers
24 with sufficient specificity to operate in a standardized manner
25 and be updated annually with transparent information that
26 reflects the utility's actual costs to be recovered during the

1 applicable rate year, which is the period beginning with the
2 first billing day of January and extending through the last
3 billing day of the following December. In the event the utility
4 recovers a portion of its costs through automatic adjustment
5 clause tariffs on October 26, 2011 (the effective date of
6 Public Act 97-616), the utility may elect to continue to
7 recover these costs through such tariffs, but then these costs
8 shall not be recovered through the performance-based formula
9 rate. In the event the participating utility, prior to December
10 30, 2011 (the effective date of Public Act 97-646), filed
11 electric delivery services tariffs with the Commission
12 pursuant to Section 9-201 of this Act that are related to the
13 recovery of its electric delivery services costs that are still
14 pending on December 30, 2011 (the effective date of Public Act
15 97-646), the participating utility shall, at the time it files
16 its performance-based formula rate tariff with the Commission,
17 also file a notice of withdrawal with the Commission to
18 withdraw the electric delivery services tariffs previously
19 filed pursuant to Section 9-201 of this Act. Upon receipt of
20 such notice, the Commission shall dismiss with prejudice any
21 docket that had been initiated to investigate the electric
22 delivery services tariffs filed pursuant to Section 9-201 of
23 this Act, and such tariffs and the record related thereto shall
24 not be the subject of any further hearing, investigation, or
25 proceeding of any kind related to rates for electric delivery
26 services.

1 The performance-based formula rate shall be implemented
2 through a tariff filed with the Commission consistent with the
3 provisions of this subsection (c) that shall be applicable to
4 all delivery services customers. The Commission shall initiate
5 and conduct an investigation of the tariff in a manner
6 consistent with the provisions of this subsection (c) and the
7 provisions of Article IX of this Act to the extent they do not
8 conflict with this subsection (c). Except in the case where the
9 Commission finds, after notice and hearing, that a
10 participating utility is not satisfying its investment amount
11 commitments under subsection (b) of this Section, the
12 performance-based formula rate shall remain in effect at the
13 discretion of the utility. The performance-based formula rate
14 approved by the Commission shall do the following:

15 (1) Provide for the recovery of the utility's actual
16 costs of delivery services that are prudently incurred and
17 reasonable in amount consistent with Commission practice
18 and law. The sole fact that a cost differs from that
19 incurred in a prior calendar year or that an investment is
20 different from that made in a prior calendar year shall not
21 imply the imprudence or unreasonableness of that cost or
22 investment.

23 (2) Reflect the utility's actual year-end capital
24 structure for the applicable calendar year, excluding
25 goodwill, subject to a determination of prudence and
26 reasonableness consistent with Commission practice and

1 law. To enable the financing of the incremental capital
2 expenditures, including regulatory assets, for electric
3 utilities that serve less than 3,000,000 retail customers
4 but more than 500,000 retail customers in the State, a
5 participating electric utility's actual year-end capital
6 structure that includes a common equity ratio, excluding
7 goodwill, of up to and including 50% of the total capital
8 structure shall be deemed reasonable and used to set rates.

9 (3) Include a cost of equity, which shall be calculated
10 as the sum of the following:

11 (A) the average for the applicable calendar year of
12 the monthly average yields of 30-year U.S. Treasury
13 bonds published by the Board of Governors of the
14 Federal Reserve System in its weekly H.15 Statistical
15 Release or successor publication; and

16 (B) 580 basis points.

17 At such time as the Board of Governors of the Federal
18 Reserve System ceases to include the monthly average yields
19 of 30-year U.S. Treasury bonds in its weekly H.15
20 Statistical Release or successor publication, the monthly
21 average yields of the U.S. Treasury bonds then having the
22 longest duration published by the Board of Governors in its
23 weekly H.15 Statistical Release or successor publication
24 shall instead be used for purposes of this paragraph (3).

25 (4) Permit and set forth protocols, subject to a
26 determination of prudence and reasonableness consistent

1 with Commission practice and law, for the following:

2 (A) recovery of incentive compensation expense
3 that is based on the achievement of operational
4 metrics, including metrics related to budget controls,
5 outage duration and frequency, safety, customer
6 service, efficiency and productivity, and
7 environmental compliance. Incentive compensation
8 expense that is based on net income or an affiliate's
9 earnings per share shall not be recoverable under the
10 performance-based formula rate;

11 (B) recovery of pension and other post-employment
12 benefits expense, provided that such costs are
13 supported by an actuarial study;

14 (C) recovery of severance costs, provided that if
15 the amount is over \$3,700,000 for a participating
16 utility that is a combination utility or \$10,000,000
17 for a participating utility that serves more than 3
18 million retail customers, then the full amount shall be
19 amortized consistent with subparagraph (F) of this
20 paragraph (4);

21 (D) investment return at a rate equal to the
22 utility's weighted average cost of long-term debt, on
23 the pension assets as, and in the amount, reported in
24 Account 186 (or in such other Account or Accounts as
25 such asset may subsequently be recorded) of the
26 utility's most recently filed FERC Form 1, net of

1 deferred tax benefits;

2 (E) recovery of the expenses related to the
3 Commission proceeding under this subsection (c) to
4 approve this performance-based formula rate and
5 initial rates or to subsequent proceedings related to
6 the formula, provided that the recovery shall be
7 amortized over a 3-year period; recovery of expenses
8 related to the annual Commission proceedings under
9 subsection (d) of this Section to review the inputs to
10 the performance-based formula rate shall be expensed
11 and recovered through the performance-based formula
12 rate;

13 (F) amortization over a 5-year period of the full
14 amount of each charge or credit that exceeds \$3,700,000
15 for a participating utility that is a combination
16 utility or \$10,000,000 for a participating utility
17 that serves more than 3 million retail customers in the
18 applicable calendar year and that relates to a
19 workforce reduction program's severance costs, changes
20 in accounting rules, changes in law, compliance with
21 any Commission-initiated audit, or a single storm or
22 other similar expense, provided that any unamortized
23 balance shall be reflected in rate base. For purposes
24 of this subparagraph (F), changes in law includes any
25 enactment, repeal, or amendment in a law, ordinance,
26 rule, regulation, interpretation, permit, license,

1 consent, or order, including those relating to taxes,
2 accounting, or to environmental matters, or in the
3 interpretation or application thereof by any
4 governmental authority occurring after October 26,
5 2011 (the effective date of Public Act 97-616);

6 (G) recovery of existing regulatory assets over
7 the periods previously authorized by the Commission;

8 (H) historical weather normalized billing
9 determinants; and

10 (I) allocation methods for common costs.

11 (5) Provide that if the participating utility's earned
12 rate of return on common equity related to the provision of
13 delivery services for the prior rate year (calculated using
14 costs and capital structure approved by the Commission as
15 provided in subparagraph (2) of this subsection (c),
16 consistent with this Section, in accordance with
17 Commission rules and orders, including, but not limited to,
18 adjustments for goodwill, and after any Commission-ordered
19 disallowances and taxes) is more than 50 basis points
20 higher than the rate of return on common equity calculated
21 pursuant to paragraph (3) of this subsection (c) (after
22 adjusting for any penalties to the rate of return on common
23 equity applied pursuant to the performance metrics
24 provision of subsection (f) of this Section), then the
25 participating utility shall apply a credit through the
26 performance-based formula rate that reflects an amount

1 equal to the value of that portion of the earned rate of
2 return on common equity that is more than 50 basis points
3 higher than the rate of return on common equity calculated
4 pursuant to paragraph (3) of this subsection (c) (after
5 adjusting for any penalties to the rate of return on common
6 equity applied pursuant to the performance metrics
7 provision of subsection (f) of this Section) for the prior
8 rate year, adjusted for taxes. If the participating
9 utility's earned rate of return on common equity related to
10 the provision of delivery services for the prior rate year
11 (calculated using costs and capital structure approved by
12 the Commission as provided in subparagraph (2) of this
13 subsection (c), consistent with this Section, in
14 accordance with Commission rules and orders, including,
15 but not limited to, adjustments for goodwill, and after any
16 Commission-ordered disallowances and taxes) is more than
17 50 basis points less than the return on common equity
18 calculated pursuant to paragraph (3) of this subsection (c)
19 (after adjusting for any penalties to the rate of return on
20 common equity applied pursuant to the performance metrics
21 provision of subsection (f) of this Section), then the
22 participating utility shall apply a charge through the
23 performance-based formula rate that reflects an amount
24 equal to the value of that portion of the earned rate of
25 return on common equity that is more than 50 basis points
26 less than the rate of return on common equity calculated

1 pursuant to paragraph (3) of this subsection (c) (after
2 adjusting for any penalties to the rate of return on common
3 equity applied pursuant to the performance metrics
4 provision of subsection (f) of this Section) for the prior
5 rate year, adjusted for taxes.

6 (6) Provide for an annual reconciliation, as described
7 in subsection (d) of this Section, with interest, of the
8 revenue requirement reflected in rates for each calendar
9 year, beginning with the calendar year in which the utility
10 files its performance-based formula rate tariff pursuant
11 to subsection (c) of this Section, with what the revenue
12 requirement would have been had the actual cost information
13 for the applicable calendar year been available at the
14 filing date.

15 The utility shall file, together with its tariff, final
16 data based on its most recently filed FERC Form 1, plus
17 projected plant additions and correspondingly updated
18 depreciation reserve and expense for the calendar year in which
19 the tariff and data are filed, that shall populate the
20 performance-based formula rate and set the initial delivery
21 services rates under the formula. For purposes of this Section,
22 "FERC Form 1" means the Annual Report of Major Electric
23 Utilities, Licensees and Others that electric utilities are
24 required to file with the Federal Energy Regulatory Commission
25 under the Federal Power Act, Sections 3, 4(a), 304 and 209,
26 modified as necessary to be consistent with 83 Ill. Admin. Code

1 Part 415 as of May 1, 2011. Nothing in this Section is intended
2 to allow costs that are not otherwise recoverable to be
3 recoverable by virtue of inclusion in FERC Form 1.

4 After the utility files its proposed performance-based
5 formula rate structure and protocols and initial rates, the
6 Commission shall initiate a docket to review the filing. The
7 Commission shall enter an order approving, or approving as
8 modified, the performance-based formula rate, including the
9 initial rates, as just and reasonable within 270 days after the
10 date on which the tariff was filed, or, if the tariff is filed
11 within 14 days after October 26, 2011 (the effective date of
12 Public Act 97-616), then by May 31, 2012. Such review shall be
13 based on the same evidentiary standards, including, but not
14 limited to, those concerning the prudence and reasonableness of
15 the costs incurred by the utility, the Commission applies in a
16 hearing to review a filing for a general increase in rates
17 under Article IX of this Act. The initial rates shall take
18 effect within 30 days after the Commission's order approving
19 the performance-based formula rate tariff.

20 Until such time as the Commission approves a different rate
21 design and cost allocation pursuant to subsection (e) of this
22 Section, rate design and cost allocation across customer
23 classes shall be consistent with the Commission's most recent
24 order regarding the participating utility's request for a
25 general increase in its delivery services rates.

26 Subsequent changes to the performance-based formula rate

1 structure or protocols shall be made as set forth in Section
2 9-201 of this Act, but nothing in this subsection (c) is
3 intended to limit the Commission's authority under Article IX
4 and other provisions of this Act to initiate an investigation
5 of a participating utility's performance-based formula rate
6 tariff, provided that any such changes shall be consistent with
7 paragraphs (1) through (6) of this subsection (c). Any change
8 ordered by the Commission shall be made at the same time new
9 rates take effect following the Commission's next order
10 pursuant to subsection (d) of this Section, provided that the
11 new rates take effect no less than 30 days after the date on
12 which the Commission issues an order adopting the change.

13 A participating utility that files a tariff pursuant to
14 this subsection (c) must submit a one-time \$200,000 filing fee
15 at the time the Chief Clerk of the Commission accepts the
16 filing, which shall be a recoverable expense.

17 In the event the performance-based formula rate is
18 terminated, the then current rates shall remain in effect until
19 such time as new rates are set pursuant to Article IX of this
20 Act, subject to retroactive rate adjustment, with interest, to
21 reconcile rates charged with actual costs. At such time that
22 the performance-based formula rate is terminated, the
23 participating utility's voluntary commitments and obligations
24 under subsection (b) of this Section shall immediately
25 terminate, except for the utility's obligation to pay an amount
26 already owed to the fund for training grants pursuant to a

1 Commission order issued under subsection (b) of this Section.

2 (d) Subsequent to the Commission's issuance of an order
3 approving the utility's performance-based formula rate
4 structure and protocols, and initial rates under subsection (c)
5 of this Section, the utility shall file, on or before May 1 of
6 each year, with the Chief Clerk of the Commission its updated
7 cost inputs to the performance-based formula rate for the
8 applicable rate year and the corresponding new charges. Each
9 such filing shall conform to the following requirements and
10 include the following information:

11 (1) The inputs to the performance-based formula rate
12 for the applicable rate year shall be based on final
13 historical data reflected in the utility's most recently
14 filed annual FERC Form 1 plus projected plant additions and
15 correspondingly updated depreciation reserve and expense
16 for the calendar year in which the inputs are filed. The
17 filing shall also include a reconciliation of the revenue
18 requirement that was in effect for the prior rate year (as
19 set by the cost inputs for the prior rate year) with the
20 actual revenue requirement for the prior rate year
21 (determined using a year-end rate base) that uses amounts
22 reflected in the applicable FERC Form 1 that reports the
23 actual costs for the prior rate year. Any over-collection
24 or under-collection indicated by such reconciliation shall
25 be reflected as a credit against, or recovered as an
26 additional charge to, respectively, with interest

1 calculated at a rate equal to the utility's weighted
2 average cost of capital approved by the Commission for the
3 prior rate year, the charges for the applicable rate year.
4 Provided, however, that the first such reconciliation
5 shall be for the calendar year in which the utility files
6 its performance-based formula rate tariff pursuant to
7 subsection (c) of this Section and shall reconcile (i) the
8 revenue requirement or requirements established by the
9 rate order or orders in effect from time to time during
10 such calendar year (weighted, as applicable) with (ii) the
11 revenue requirement determined using a year-end rate base
12 for that calendar year calculated pursuant to the
13 performance-based formula rate using (A) actual costs for
14 that year as reflected in the applicable FERC Form 1, and
15 (B) for the first such reconciliation only, the cost of
16 equity, which shall be calculated as the sum of 590 basis
17 points plus the average for the applicable calendar year of
18 the monthly average yields of 30-year U.S. Treasury bonds
19 published by the Board of Governors of the Federal Reserve
20 System in its weekly H.15 Statistical Release or successor
21 publication. The first such reconciliation is not intended
22 to provide for the recovery of costs previously excluded
23 from rates based on a prior Commission order finding of
24 imprudence or unreasonableness. Each reconciliation shall
25 be certified by the participating utility in the same
26 manner that FERC Form 1 is certified. The filing shall also

1 include the charge or credit, if any, resulting from the
2 calculation required by paragraph (6) of subsection (c) of
3 this Section.

4 Notwithstanding anything that may be to the contrary,
5 the intent of the reconciliation is to ultimately reconcile
6 the revenue requirement reflected in rates for each
7 calendar year, beginning with the calendar year in which
8 the utility files its performance-based formula rate
9 tariff pursuant to subsection (c) of this Section, with
10 what the revenue requirement determined using a year-end
11 rate base for the applicable calendar year would have been
12 had the actual cost information for the applicable calendar
13 year been available at the filing date.

14 (2) The new charges shall take effect beginning on the
15 first billing day of the following January billing period
16 and remain in effect through the last billing day of the
17 next December billing period regardless of whether the
18 Commission enters upon a hearing pursuant to this
19 subsection (d).

20 (3) The filing shall include relevant and necessary
21 data and documentation for the applicable rate year that is
22 consistent with the Commission's rules applicable to a
23 filing for a general increase in rates or any rules adopted
24 by the Commission to implement this Section. Normalization
25 adjustments shall not be required. Notwithstanding any
26 other provision of this Section or Act or any rule or other

1 requirement adopted by the Commission, a participating
2 utility that is a combination utility with more than one
3 rate zone shall not be required to file a separate set of
4 such data and documentation for each rate zone and may
5 combine such data and documentation into a single set of
6 schedules.

7 Within 45 days after the utility files its annual update of
8 cost inputs to the performance-based formula rate, the
9 Commission shall have the authority, either upon complaint or
10 its own initiative, but with reasonable notice, to enter upon a
11 hearing concerning the prudence and reasonableness of the costs
12 incurred by the utility to be recovered during the applicable
13 rate year that are reflected in the inputs to the
14 performance-based formula rate derived from the utility's FERC
15 Form 1. During the course of the hearing, each objection shall
16 be stated with particularity and evidence provided in support
17 thereof, after which the utility shall have the opportunity to
18 rebut the evidence. Discovery shall be allowed consistent with
19 the Commission's Rules of Practice, which Rules shall be
20 enforced by the Commission or the assigned hearing examiner.
21 The Commission shall apply the same evidentiary standards,
22 including, but not limited to, those concerning the prudence
23 and reasonableness of the costs incurred by the utility, in the
24 hearing as it would apply in a hearing to review a filing for a
25 general increase in rates under Article IX of this Act. The
26 Commission shall not, however, have the authority in a

1 proceeding under this subsection (d) to consider or order any
2 changes to the structure or protocols of the performance-based
3 formula rate approved pursuant to subsection (c) of this
4 Section. In a proceeding under this subsection (d), the
5 Commission shall enter its order no later than the earlier of
6 240 days after the utility's filing of its annual update of
7 cost inputs to the performance-based formula rate or December
8 31. The Commission's determinations of the prudence and
9 reasonableness of the costs incurred for the applicable
10 calendar year shall be final upon entry of the Commission's
11 order and shall not be subject to reopening, reexamination, or
12 collateral attack in any other Commission proceeding, case,
13 docket, order, rule or regulation, provided, however, that
14 nothing in this subsection (d) shall prohibit a party from
15 petitioning the Commission to rehear or appeal to the courts
16 the order pursuant to the provisions of this Act.

17 In the event the Commission does not, either upon complaint
18 or its own initiative, enter upon a hearing within 45 days
19 after the utility files the annual update of cost inputs to its
20 performance-based formula rate, then the costs incurred for the
21 applicable calendar year shall be deemed prudent and
22 reasonable, and the filed charges shall not be subject to
23 reopening, reexamination, or collateral attack in any other
24 proceeding, case, docket, order, rule, or regulation.

25 A participating utility's first filing of the updated cost
26 inputs, and any Commission investigation of such inputs

1 pursuant to this subsection (d) shall proceed notwithstanding
2 the fact that the Commission's investigation under subsection
3 (c) of this Section is still pending and notwithstanding any
4 other law, order, rule, or Commission practice to the contrary.

5 (e) Nothing in subsections (c) or (d) of this Section shall
6 prohibit the Commission from investigating, or a participating
7 utility from filing, revenue-neutral tariff changes related to
8 rate design of a performance-based formula rate that has been
9 placed into effect for the utility. Following approval of a
10 participating utility's performance-based formula rate tariff
11 pursuant to subsection (c) of this Section, the utility shall
12 make a filing with the Commission within one year after the
13 effective date of the performance-based formula rate tariff
14 that proposes changes to the tariff to incorporate the findings
15 of any final rate design orders of the Commission applicable to
16 the participating utility and entered subsequent to the
17 Commission's approval of the tariff. The Commission shall,
18 after notice and hearing, enter its order approving, or
19 approving with modification, the proposed changes to the
20 performance-based formula rate tariff within 240 days after the
21 utility's filing. Following such approval, the utility shall
22 make a filing with the Commission during each subsequent 3-year
23 period that either proposes revenue-neutral tariff changes or
24 re-files the existing tariffs without change, which shall
25 present the Commission with an opportunity to suspend the
26 tariffs and consider revenue-neutral tariff changes related to

1 rate design.

2 (f) Within 30 days after the filing of a tariff pursuant to
3 subsection (c) of this Section, each participating utility
4 shall develop and file with the Commission multi-year metrics
5 designed to achieve, ratably (i.e., in equal segments) over a
6 10-year period, improvement over baseline performance values
7 as follows:

8 (1) Twenty percent improvement in the System Average
9 Interruption Frequency Index, using a baseline of the
10 average of the data from 2001 through 2010.

11 (2) Fifteen percent improvement in the system Customer
12 Average Interruption Duration Index, using a baseline of
13 the average of the data from 2001 through 2010.

14 (3) For a participating utility other than a
15 combination utility, 20% improvement in the System Average
16 Interruption Frequency Index for its Southern Region,
17 using a baseline of the average of the data from 2001
18 through 2010. For purposes of this paragraph (3), Southern
19 Region shall have the meaning set forth in the
20 participating utility's most recent report filed pursuant
21 to Section 16-125 of this Act.

22 (3.5) For a participating utility other than a
23 combination utility, 20% improvement in the System Average
24 Interruption Frequency Index for its Northeastern Region,
25 using a baseline of the average of the data from 2001
26 through 2010. For purposes of this paragraph (3.5),

1 Northeastern Region shall have the meaning set forth in the
2 participating utility's most recent report filed pursuant
3 to Section 16-125 of this Act.

4 (4) Seventy-five percent improvement in the total
5 number of customers who exceed the service reliability
6 targets as set forth in subparagraphs (A) through (C) of
7 paragraph (4) of subsection (b) of 83 Ill. Admin. Code Part
8 411.140 as of May 1, 2011, using 2010 as the baseline year.

9 (5) Reduction in issuance of estimated electric bills:
10 90% improvement for a participating utility other than a
11 combination utility, and 56% improvement for a
12 participating utility that is a combination utility, using
13 a baseline of the average number of estimated bills for the
14 years 2008 through 2010.

15 (6) Consumption on inactive meters: 90% improvement
16 for a participating utility other than a combination
17 utility, and 56% improvement for a participating utility
18 that is a combination utility, using a baseline of the
19 average unbilled kilowatthours for the years 2009 and 2010.

20 (7) Unaccounted for energy: 50% improvement for a
21 participating utility other than a combination utility
22 using a baseline of the non-technical line loss unaccounted
23 for energy kilowatthours for the year 2009.

24 (8) Uncollectible expense: reduce uncollectible
25 expense by at least \$30,000,000 for a participating utility
26 other than a combination utility and by at least \$3,500,000

1 for a participating utility that is a combination utility,
2 using a baseline of the average uncollectible expense for
3 the years 2008 through 2010.

4 (9) Opportunities for minority-owned and female-owned
5 business enterprises: design a performance metric
6 regarding the creation of opportunities for minority-owned
7 and female-owned business enterprises consistent with
8 State and federal law using a base performance value of the
9 percentage of the participating utility's capital
10 expenditures that were paid to minority-owned and
11 female-owned business enterprises in 2010.

12 The definitions set forth in 83 Ill. Admin. Code Part
13 411.20 as of May 1, 2011 shall be used for purposes of
14 calculating performance under paragraphs (1) through (3.5) of
15 this subsection (f), provided, however, that the participating
16 utility may exclude up to 9 extreme weather event days from
17 such calculation for each year, and provided further that the
18 participating utility shall exclude 9 extreme weather event
19 days when calculating each year of the baseline period to the
20 extent that there are 9 such days in a given year of the
21 baseline period. For purposes of this Section, an extreme
22 weather event day is a 24-hour calendar day (beginning at 12:00
23 a.m. and ending at 11:59 p.m.) during which any weather event
24 (e.g., storm, tornado) caused interruptions for 10,000 or more
25 of the participating utility's customers for 3 hours or more.
26 If there are more than 9 extreme weather event days in a year,

1 then the utility may choose no more than 9 extreme weather
2 event days to exclude, provided that the same extreme weather
3 event days are excluded from each of the calculations performed
4 under paragraphs (1) through (3.5) of this subsection (f).

5 The metrics shall include incremental performance goals
6 for each year of the 10-year period, which shall be designed to
7 demonstrate that the utility is on track to achieve the
8 performance goal in each category at the end of the 10-year
9 period. The utility shall elect when the 10-year period shall
10 commence for the metrics set forth in subparagraphs (1) through
11 (4) and (9) of this subsection (f), provided that it begins no
12 later than 14 months following the date on which the utility
13 begins investing pursuant to subsection (b) of this Section,
14 and when the 10-year period shall commence for the metrics set
15 forth in subparagraphs (5) through (8) of this subsection (f),
16 provided that it begins no later than 14 months following the
17 date on which the Commission enters its order approving the
18 utility's Advanced Metering Infrastructure Deployment Plan
19 pursuant to subsection (c) of Section 16-108.6 of this Act.

20 The metrics and performance goals set forth in
21 subparagraphs (5) through (8) of this subsection (f) are based
22 on the assumptions that the participating utility may fully
23 implement the technology described in subsection (b) of this
24 Section, including utilizing the full functionality of such
25 technology and that there is no requirement for personal
26 on-site notification. If the utility is unable to meet the

1 metrics and performance goals set forth in subparagraphs (5)
2 through (8) of this subsection (f) for such reasons, and the
3 Commission so finds after notice and hearing, then the utility
4 shall be excused from compliance, but only to the limited
5 extent achievement of the affected metrics and performance
6 goals was hindered by the less than full implementation.

7 (f-5) The financial penalties applicable to the metrics
8 described in subparagraphs (1) through (8) of subsection (f) of
9 this Section, as applicable, shall be applied through an
10 adjustment to the participating utility's return on equity of
11 no more than a total of 30 basis points in each of the first 3
12 years, of no more than a total of 34 basis points in each of the
13 3 years thereafter, and of no more than a total of 38 basis
14 points in each of the 4 years thereafter, as follows:

15 (1) With respect to each of the incremental annual
16 performance goals established pursuant to paragraph (1) of
17 subsection (f) of this Section,

18 (A) for each year that a participating utility
19 other than a combination utility does not achieve the
20 annual goal, the participating utility's return on
21 equity shall be reduced as follows: during years 1
22 through 3, by 5 basis points; during years 4 through 6,
23 by 6 basis points; and during years 7 through 10, by 7
24 basis points; and

25 (B) for each year that a participating utility that
26 is a combination utility does not achieve the annual

1 goal, the participating utility's return on equity
2 shall be reduced as follows: during years 1 through 3,
3 by 10 basis points; during years 4 through 6, by 12
4 basis points; and during years 7 through 10, by 14
5 basis points.

6 (2) With respect to each of the incremental annual
7 performance goals established pursuant to paragraph (2) of
8 subsection (f) of this Section, for each year that the
9 participating utility does not achieve each such goal, the
10 participating utility's return on equity shall be reduced
11 as follows: during years 1 through 3, by 5 basis points;
12 during years 4 through 6, by 6 basis points; and during
13 years 7 through 10, by 7 basis points.

14 (3) With respect to each of the incremental annual
15 performance goals established pursuant to paragraphs (3)
16 and (3.5) of subsection (f) of this Section, for each year
17 that a participating utility other than a combination
18 utility does not achieve both such goals, the participating
19 utility's return on equity shall be reduced as follows:
20 during years 1 through 3, by 5 basis points; during years 4
21 through 6, by 6 basis points; and during years 7 through
22 10, by 7 basis points.

23 (4) With respect to each of the incremental annual
24 performance goals established pursuant to paragraph (4) of
25 subsection (f) of this Section, for each year that the
26 participating utility does not achieve each such goal, the

1 participating utility's return on equity shall be reduced
2 as follows: during years 1 through 3, by 5 basis points;
3 during years 4 through 6, by 6 basis points; and during
4 years 7 through 10, by 7 basis points.

5 (5) With respect to each of the incremental annual
6 performance goals established pursuant to subparagraph (5)
7 of subsection (f) of this Section, for each year that the
8 participating utility does not achieve at least 95% of each
9 such goal, the participating utility's return on equity
10 shall be reduced by 5 basis points for each such unachieved
11 goal.

12 (6) With respect to each of the incremental annual
13 performance goals established pursuant to paragraphs (6),
14 (7), and (8) of subsection (f) of this Section, as
15 applicable, which together measure non-operational
16 customer savings and benefits relating to the
17 implementation of the Advanced Metering Infrastructure
18 Deployment Plan, as defined in Section 16-108.6 of this
19 Act, the performance under each such goal shall be
20 calculated in terms of the percentage of the goal achieved.
21 The percentage of goal achieved for each of the goals shall
22 be aggregated, and an average percentage value calculated,
23 for each year of the 10-year period. If the utility does
24 not achieve an average percentage value in a given year of
25 at least 95%, the participating utility's return on equity
26 shall be reduced by 5 basis points.

1 The financial penalties shall be applied as described in
2 this subsection (f-5) for the 12-month period in which the
3 deficiency occurred through a separate tariff mechanism, which
4 shall be filed by the utility together with its metrics. In the
5 event the formula rate tariff established pursuant to
6 subsection (c) of this Section terminates, the utility's
7 obligations under subsection (f) of this Section and this
8 subsection (f-5) shall also terminate, provided, however, that
9 the tariff mechanism established pursuant to subsection (f) of
10 this Section and this subsection (f-5) shall remain in effect
11 until any penalties due and owing at the time of such
12 termination are applied.

13 The Commission shall, after notice and hearing, enter an
14 order within 120 days after the metrics are filed approving, or
15 approving with modification, a participating utility's tariff
16 or mechanism to satisfy the metrics set forth in subsection (f)
17 of this Section. On June 1 of each subsequent year, each
18 participating utility shall file a report with the Commission
19 that includes, among other things, a description of how the
20 participating utility performed under each metric and an
21 identification of any extraordinary events that adversely
22 impacted the utility's performance. Whenever a participating
23 utility does not satisfy the metrics required pursuant to
24 subsection (f) of this Section, the Commission shall, after
25 notice and hearing, enter an order approving financial
26 penalties in accordance with this subsection (f-5). The

1 Commission-approved financial penalties shall be applied
2 beginning with the next rate year. Nothing in this Section
3 shall authorize the Commission to reduce or otherwise obviate
4 the imposition of financial penalties for failing to achieve
5 one or more of the metrics established pursuant to subparagraph
6 (1) through (4) of subsection (f) of this Section.

7 (g) On or before July 31, 2014, each participating utility
8 shall file a report with the Commission that sets forth the
9 average annual increase in the average amount paid per
10 kilowatthour for residential eligible retail customers,
11 exclusive of the effects of energy efficiency programs,
12 comparing the 12-month period ending May 31, 2012; the 12-month
13 period ending May 31, 2013; and the 12-month period ending May
14 31, 2014. For a participating utility that is a combination
15 utility with more than one rate zone, the weighted average
16 aggregate increase shall be provided. The report shall be filed
17 together with a statement from an independent auditor attesting
18 to the accuracy of the report. The cost of the independent
19 auditor shall be borne by the participating utility and shall
20 not be a recoverable expense. "The average amount paid per
21 kilowatthour" shall be based on the participating utility's
22 tariffed rates actually in effect and shall not be calculated
23 using any hypothetical rate or adjustments to actual charges
24 (other than as specified for energy efficiency) as an input.

25 In the event that the average annual increase exceeds 2.5%
26 as calculated pursuant to this subsection (g), then Sections

1 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of this Act, other
2 than this subsection, shall be inoperative as they relate to
3 the utility and its service area as of the date of the report
4 due to be submitted pursuant to this subsection and the utility
5 shall no longer be eligible to annually update the
6 performance-based formula rate tariff pursuant to subsection
7 (d) of this Section. In such event, the then current rates
8 shall remain in effect until such time as new rates are set
9 pursuant to Article IX of this Act, subject to retroactive
10 adjustment, with interest, to reconcile rates charged with
11 actual costs, and the participating utility's voluntary
12 commitments and obligations under subsection (b) of this
13 Section shall immediately terminate, except for the utility's
14 obligation to pay an amount already owed to the fund for
15 training grants pursuant to a Commission order issued under
16 subsection (b) of this Section.

17 In the event that the average annual increase is 2.5% or
18 less as calculated pursuant to this subsection (g), then the
19 performance-based formula rate shall remain in effect as set
20 forth in this Section.

21 For purposes of this Section, the amount per kilowatthour
22 means the total amount paid for electric service expressed on a
23 per kilowatthour basis, and the total amount paid for electric
24 service includes without limitation amounts paid for supply,
25 transmission, distribution, surcharges, and add-on taxes
26 exclusive of any increases in taxes or new taxes imposed after

1 October 26, 2011 (the effective date of Public Act 97-616). For
2 purposes of this Section, "eligible retail customers" shall
3 have the meaning set forth in Section 16-111.5 of this Act.

4 The fact that this Section becomes inoperative as set forth
5 in this subsection shall not be construed to mean that the
6 Commission may reexamine or otherwise reopen prudence or
7 reasonableness determinations already made.

8 ~~(h) Sections 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of~~
9 ~~this Act, other than this subsection, are inoperative after~~
10 ~~December 31, 2019 for every participating utility, after which~~
11 ~~time a participating utility shall no longer be eligible to~~
12 ~~annually update the performance-based formula rate tariff~~
13 ~~pursuant to subsection (d) of this Section. At such time, the~~
14 ~~then current rates shall remain in effect until such time as~~
15 ~~new rates are set pursuant to Article IX of this Act, subject~~
16 ~~to retroactive adjustment, with interest, to reconcile rates~~
17 ~~charged with actual costs.~~

18 By December 31, 2017, the Commission shall prepare and file
19 with the General Assembly a report on the infrastructure
20 program and the performance-based formula rate. The report
21 shall include the change in the average amount per kilowatthour
22 paid by residential customers between June 1, 2011 and May 31,
23 2017. If the change in the total average rate paid exceeds 2.5%
24 compounded annually, the Commission shall include in the report
25 an analysis that shows the portion of the change due to the
26 delivery services component and the portion of the change due

1 to the supply component of the rate. The report shall include
2 separate sections for each participating utility.

3 ~~In the event Sections 16-108.5, 16-108.6, 16-108.7, and~~
4 ~~16-108.8 of this Act, other than this subsection (h), do not~~
5 ~~become inoperative after December 31, 2019, then these Sections~~
6 are inoperative after December 31, 2022 for every participating
7 utility, after which time a participating utility shall no
8 longer be eligible to annually update the performance-based
9 formula rate tariff pursuant to subsection (d) of this Section.
10 At such time, the then current rates shall remain in effect
11 until such time as new rates are set pursuant to Article IX of
12 this Act, subject to retroactive adjustment, with interest, to
13 reconcile rates charged with actual costs.

14 The fact that this Section becomes inoperative as set forth
15 in this subsection shall not be construed to mean that the
16 Commission may reexamine or otherwise reopen prudence or
17 reasonableness determinations already made.

18 (i) While a participating utility may use, develop, and
19 maintain broadband systems and the delivery of broadband
20 services, voice-over-internet-protocol services,
21 telecommunications services, and cable and video programming
22 services for use in providing delivery services and Smart Grid
23 functionality or application to its retail customers,
24 including, but not limited to, the installation,
25 implementation and maintenance of Smart Grid electric system
26 upgrades as defined in Section 16-108.6 of this Act, a

1 participating utility is prohibited from offering to its retail
2 customers broadband services or the delivery of broadband
3 services, voice-over-internet-protocol services,
4 telecommunications services, or cable or video programming
5 services, unless they are part of a service directly related to
6 delivery services or Smart Grid functionality or applications
7 as defined in Section 16-108.6 of this Act, and from recovering
8 the costs of such offerings from retail customers.

9 (j) Nothing in this Section is intended to legislatively
10 overturn the opinion issued in Commonwealth Edison Co. v. Ill.
11 Commerce Comm'n, Nos. 2-08-0959, 2-08-1037, 2-08-1137,
12 1-08-3008, 1-08-3030, 1-08-3054, 1-08-3313 cons. (Ill. App.
13 Ct. 2d Dist. Sept. 30, 2010). Public Act 97-616 shall not be
14 construed as creating a contract between the General Assembly
15 and the participating utility, and shall not establish a
16 property right in the participating utility.

17 (k) The changes made in subsections (c) and (d) of this
18 Section by Public Act 98-15 are intended to be a restatement
19 and clarification of existing law, and intended to give binding
20 effect to the provisions of House Resolution 1157 adopted by
21 the House of Representatives of the 97th General Assembly and
22 Senate Resolution 821 adopted by the Senate of the 97th General
23 Assembly that are reflected in paragraph (3) of this
24 subsection. In addition, Public Act 98-15 preempts and
25 supersedes any final Commission orders entered in Docket Nos.
26 11-0721, 12-0001, 12-0293, and 12-0321 to the extent

1 inconsistent with the amendatory language added to subsections
2 (c) and (d).

3 (1) No earlier than 5 business days after May 22, 2013
4 (the effective date of Public Act 98-15), each
5 participating utility shall file any tariff changes
6 necessary to implement the amendatory language set forth in
7 subsections (c) and (d) of this Section by Public Act 98-15
8 and a revised revenue requirement under the participating
9 utility's performance-based formula rate. The Commission
10 shall enter a final order approving such tariff changes and
11 revised revenue requirement within 21 days after the
12 participating utility's filing.

13 (2) Notwithstanding anything that may be to the
14 contrary, a participating utility may file a tariff to
15 retroactively recover its previously unrecovered actual
16 costs of delivery service that are no longer subject to
17 recovery through a reconciliation adjustment under
18 subsection (d) of this Section. This retroactive recovery
19 shall include any derivative adjustments resulting from
20 the changes to subsections (c) and (d) of this Section by
21 Public Act 98-15. Such tariff shall allow the utility to
22 assess, on current customer bills over a period of 12
23 monthly billing periods, a charge or credit related to
24 those unrecovered costs with interest at the utility's
25 weighted average cost of capital during the period in which
26 those costs were unrecovered. A participating utility may

1 file a tariff that implements a retroactive charge or
2 credit as described in this paragraph for amounts not
3 otherwise included in the tariff filing provided for in
4 paragraph (1) of this subsection (k). The Commission shall
5 enter a final order approving such tariff within 21 days
6 after the participating utility's filing.

7 (3) The tariff changes described in paragraphs (1) and
8 (2) of this subsection (k) shall relate only to, and be
9 consistent with, the following provisions of Public Act
10 98-15: paragraph (2) of subsection (c) regarding year-end
11 capital structure, subparagraph (D) of paragraph (4) of
12 subsection (c) regarding pension assets, and subsection
13 (d) regarding the reconciliation components related to
14 year-end rate base and interest calculated at a rate equal
15 to the utility's weighted average cost of capital.

16 (4) Nothing in this subsection is intended to effect a
17 dismissal of or otherwise affect an appeal from any final
18 Commission orders entered in Docket Nos. 11-0721, 12-0001,
19 12-0293, and 12-0321 other than to the extent of the
20 amendatory language contained in subsections (c) and (d) of
21 this Section of Public Act 98-15.

22 (1) Each participating utility shall be deemed to have been
23 in full compliance with all requirements of subsection (b) of
24 this Section, subsection (c) of this Section, Section 16-108.6
25 of this Act, and all Commission orders entered pursuant to
26 Sections 16-108.5 and 16-108.6 of this Act, up to and including

1 May 22, 2013 (the effective date of Public Act 98-15). The
2 Commission shall not undertake any investigation of such
3 compliance and no penalty shall be assessed or adverse action
4 taken against a participating utility for noncompliance with
5 Commission orders associated with subsection (b) of this
6 Section, subsection (c) of this Section, and Section 16-108.6
7 of this Act prior to such date. Each participating utility
8 other than a combination utility shall be permitted, without
9 penalty, a period of 12 months after such effective date to
10 take actions required to ensure its infrastructure investment
11 program is in compliance with subsection (b) of this Section
12 and with Section 16-108.6 of this Act. Provided further, the
13 following subparagraphs shall apply to a participating utility
14 other than a combination utility:

15 (A) if the Commission has initiated a proceeding
16 pursuant to subsection (e) of Section 16-108.6 of this Act
17 that is pending as of May 22, 2013 (the effective date of
18 Public Act 98-15), then the order entered in such
19 proceeding shall, after notice and hearing, accelerate the
20 commencement of the meter deployment schedule approved in
21 the final Commission order on rehearing entered in Docket
22 No. 12-0298;

23 (B) if the Commission has entered an order pursuant to
24 subsection (e) of Section 16-108.6 of this Act prior to May
25 22, 2013 (the effective date of Public Act 98-15) that does
26 not accelerate the commencement of the meter deployment

1 schedule approved in the final Commission order on
2 rehearing entered in Docket No. 12-0298, then the utility
3 shall file with the Commission, within 45 days after such
4 effective date, a plan for accelerating the commencement of
5 the utility's meter deployment schedule approved in the
6 final Commission order on rehearing entered in Docket No.
7 12-0298; the Commission shall reopen the proceeding in
8 which it entered its order pursuant to subsection (e) of
9 Section 16-108.6 of this Act and shall, after notice and
10 hearing, enter an amendatory order that approves or
11 approves as modified such accelerated plan within 90 days
12 after the utility's filing; or

13 (C) if the Commission has not initiated a proceeding
14 pursuant to subsection (e) of Section 16-108.6 of this Act
15 prior to May 22, 2013 (the effective date of Public Act
16 98-15), then the utility shall file with the Commission,
17 within 45 days after such effective date, a plan for
18 accelerating the commencement of the utility's meter
19 deployment schedule approved in the final Commission order
20 on rehearing entered in Docket No. 12-0298 and the
21 Commission shall, after notice and hearing, approve or
22 approve as modified such plan within 90 days after the
23 utility's filing.

24 Any schedule for meter deployment approved by the
25 Commission pursuant to this subsection (1) shall take into
26 consideration procurement times for meters and other equipment

1 and operational issues. Nothing in Public Act 98-15 shall
2 shorten or extend the end dates for the 5-year or 10-year
3 periods set forth in subsection (b) of this Section or Section
4 16-108.6 of this Act. Nothing in this subsection is intended to
5 address whether a participating utility has, or has not,
6 satisfied any or all of the metrics and performance goals
7 established pursuant to subsection (f) of this Section.

8 (m) The provisions of Public Act 98-15 are severable under
9 Section 1.31 of the Statute on Statutes.

10 (Source: P.A. 98-15, eff. 5-22-13; 98-1175, eff. 6-1-15;
11 99-143, eff. 7-27-15; 99-642, eff. 7-28-16.)

12 (220 ILCS 5/16-108.10 new)

13 Sec. 16-108.10. Energy low-income and support program.
14 Beginning in 2017, without obtaining any approvals from the
15 Commission or any other agency, regardless of whether any such
16 approval would otherwise be required, a participating utility
17 that is not a combination utility, as defined by Section
18 16-108.5 of this Act, shall contribute \$10,000,000 per year for
19 5 years to the energy low-income and support program, which is
20 intended to fund customer assistance programs with the primary
21 purpose being avoidance of imminent disconnection and
22 reconnecting customers who have been disconnected for
23 non-payment. Such programs may include:

24 (1) a residential hardship program that may partner
25 with community-based organizations, including senior

1 citizen organizations, and provides grants to low-income
2 residential customers, including low-income senior
3 citizens, who demonstrate a hardship;

4 (2) a program that provides grants and other bill
5 payment concessions to disabled veterans who demonstrate a
6 hardship and members of the armed services or reserve
7 forces of the United States or members of the Illinois
8 National Guard who are on active duty under an executive
9 order of the President of the United States, an act of the
10 Congress of the United States, or an order of the Governor
11 and who demonstrate a hardship;

12 (3) a budget assistance program that provides tools and
13 education to low-income senior citizens to assist them with
14 obtaining information regarding energy usage and effective
15 means of managing energy costs;

16 (4) a non-residential special hardship program that
17 provides grants to non-residential customers, such as
18 small businesses and non-profit organizations, that
19 demonstrate a hardship, including those providing services
20 to senior citizen and low-income customers; and

21 (5) a performance-based assistance program that
22 provides grants to encourage residential customers to make
23 on-time payments by matching a portion of the customer's
24 payments or providing credits towards arrearages.

25 The payments made by a participating utility under this
26 Section shall not be a recoverable expense. A participating

1 utility may elect to fund either new or existing customer
2 assistance programs, including, but not limited to, those that
3 are administered by the utility.

4 Programs that use funds that are provided by an electric
5 utility to reduce utility bills may be implemented through
6 tariffs that are filed with and reviewed by the Commission. If
7 a utility elects to file tariffs with the Commission to
8 implement all or a portion of the programs, those tariffs
9 shall, regardless of the date actually filed, be deemed
10 accepted and approved and shall become effective on the first
11 business day after they are filed. The electric utilities whose
12 customers benefit from the funds that are disbursed as
13 contemplated in this Section shall file annual reports
14 documenting the disbursement of those funds with the
15 Commission. The Commission may audit disbursement of the funds
16 to ensure they were disbursed consistently with this Section.

17 If the Commission finds that a participating utility is no
18 longer eligible to update the performance-based formula rate
19 tariff under subsection (d) of Section 16-108.5 of this Act or
20 the performance-based formula rate is otherwise terminated,
21 then the participating utility's obligations under this
22 Section shall immediately terminate.

23 (220 ILCS 5/16-108.11 new)

24 Sec. 16-108.11. Employment opportunities. To the extent
25 feasible and consistent with State and federal law, the

1 procurement of contracted labor, materials, and supplies by
2 electric utilities in connection with the offering of delivery
3 services under Article XVI of this Act should provide
4 employment opportunities for all segments of the population and
5 workforce, including minority-owned and female-owned business
6 enterprises, and shall not, consistent with State and federal
7 law, discriminate based on race or socioeconomic status.

8 (220 ILCS 5/16-108.12 new)

9 Sec. 16-108.12. Utility job training program.

10 (a) An electric utility that serves more than 3,000,000
11 customers in the State shall spend \$10,000,000 per year in
12 2017, 2021, and 2025 to fund the programs described in this
13 Section.

14 (1) The utility shall fund a solar training pipeline
15 program in the amount of \$3,000,000. The utility may
16 administer the program or contract with another entity to
17 administer the program. The program shall be designed to
18 establish a solar installer training pipeline for projects
19 authorized under Section 1-56 of the Illinois Power Agency
20 Act and to establish a pool of trained installers who will
21 be able to install solar projects authorized under
22 subsection (c) of Section 1-75 of the Illinois Power Agency
23 Act and otherwise. The program may include single event
24 training programs. The program described in this paragraph
25 (1) shall be designed to ensure that entities that offer

1 training are located in, and trainees are recruited from,
2 the same communities that the program aims to serve and
3 that the program provides trainees with the opportunity to
4 obtain real-world experience. The program described in
5 this paragraph (1) shall also be designed to assist
6 trainees so that they can obtain applicable certifications
7 or participate in an apprenticeship program. The utility or
8 administrator shall include funding for programs that
9 provide training to individuals who are or were foster
10 children or that target persons with a record who are
11 transitioning with job training and job placement
12 programs. The program shall include an incentive to
13 facilitate an increase of hiring of qualified persons who
14 are or were foster children and persons with a record. It
15 is a goal of the program described in this paragraph (1)
16 that at least 50% of the trainees in this program come from
17 within environmental justice communities and that 2,000
18 jobs are created for persons who are or were foster
19 children and persons with a record.

20 (2) The utility shall fund a craft apprenticeship
21 program in the amount of \$3,000,000. The program shall be
22 an accredited or otherwise recognized apprenticeship
23 program over a period not to exceed 4 years, for particular
24 crafts, trades, or skills in the electric industry that
25 may, but need not, be related to solar installation.

26 (3) The utility shall fund multi-cultural jobs

1 programs in the amount of \$4,000,000. The funding shall be
2 allocated in the applicable year to individual programs as
3 set forth in subparagraphs (A) through (F) of this
4 paragraph (3) and may, but need not, be related to solar
5 installation, over a period not to exceed 4 years, by
6 diversity-focused community organizations that have a
7 record of successfully delivering job training.

8 (A) \$1,000,000 to a community-based civil rights
9 and human services not-for-profit organization that
10 provides economic development, human capital, and
11 education program services.

12 (B) \$500,000 to a not-for-profit organization that
13 is also an education institution that offers training
14 programs approved by the Illinois State Board of
15 Education and United States Department of Education
16 with the goal of providing workforce initiatives
17 leading to economic independence.

18 (C) \$500,000 to a not-for-profit organization
19 dedicated to developing the educational and leadership
20 capacity of minority youth through the operation of
21 schools, youth leadership clubs and youth development
22 centers.

23 (D) \$1,000,000 to a not-for-profit organization
24 dedicated to providing equal access to opportunities
25 in the construction industry that offer training
26 programs that include Occupational Safety and Health

1 Administration 10 and 30 certifications, Environmental
2 Protection Agency Renovation, Repair and Painting
3 Certification and Leadership in Energy and
4 Environmental Design Accredited Green Associate Exam
5 preparation courses.

6 (E) \$500,000 to a non-profit organization that has
7 a proven record of successfully implementing utility
8 industry training programs, with expertise in creating
9 programs that strengthen the economics of communities
10 including technical training workshops and economic
11 development through community and financial partners.

12 (F) \$500,000 to a nonprofit organization that
13 provides family services, housing education, job and
14 career education opportunities that has successfully
15 partnered with the utility on electric industry job
16 training.

17 For the purposes of this Section, "person with a record"
18 means any person who (1) has been convicted of a crime in this
19 State or of an offense in any other jurisdiction, not including
20 an offense or attempted offense that would subject a person to
21 registration under the Sex Offender Registration Act; (2) has a
22 record of an arrest or an arrest that did not result in
23 conviction for any crime in this State or of an offense in any
24 other jurisdiction; or (3) has a juvenile delinquency
25 adjudication.

26 (b) Within 60 days after the effective date of this

1 amendatory Act of the 99th General Assembly, an electric
2 utility that serves more than 3,000,000 customers in the State
3 shall file with the Commission a plan to implement this
4 Section. Within 60 days after the plan is filed, the Commission
5 shall enter an order approving the plan if it is consistent
6 with this Section or, if the plan is not consistent with this
7 Section, the Commission shall explain the deficiencies, after
8 which time the utility shall file a new plan. The utility shall
9 use the funds described in subparagraph (O) of paragraph (1) of
10 subsection (c) of Section 1-75 of the Illinois Power Agency Act
11 to pay for the Commission approved programs under this Section.

12 (220 ILCS 5/16-108.15 new)

13 Sec. 16-108.15. Rate impacts.

14 (a) Each electric utility that serves more than 500,000
15 retail customers in the State shall file with the Commission
16 the reports required by this Section, which shall identify the
17 actual and projected average monthly increases in residential
18 retail customers' electric bills due to future energy
19 investment costs for the applicable period or periods.

20 (b) The average monthly increase calculation shall be
21 comprised of the following components:

22 (1) Beginning with the 2017 calendar year, the average
23 monthly amount paid by residential retail customers,
24 expressed on a cents-per-kilowatthour basis, to recover
25 future energy investment costs, which include the charges

1 to recover the costs incurred by the utility under the
2 following provisions:

3 (A) Sections 8-103, Section 8-103B, and 16-111.5B
4 of this Act, as applicable, and as such costs may be
5 recovered under Sections 8-103, 8-103B, 16-111.5B or
6 Section 16-108.5 of this Act;

7 (B) subsection (d-5) of Section 1-75 of the
8 Illinois Power Agency Act, as such costs may be
9 recovered under subsection (k) of Section 16-108 of
10 this Act; and

11 (C) Section 16-107.6 of this Act.

12 Beginning with the 2018 calendar year, each of the
13 average monthly charges calculated in subparagraphs (A)
14 through (C) of this paragraph (1) shall be equal to the
15 average of each such charge applied over a period that
16 commences with the calendar year ending December 31, 2017
17 and ends with the most recently completed calendar year
18 prior to the calculation or calculations required by this
19 Section.

20 (2) The sum of the following:

21 (A) net energy savings to residential retail
22 customers that are attributable to the implementation
23 of voltage optimization measures under Section 8-103B
24 of this Act, expressed on a cents-per-kilowatthour
25 basis, which are estimated energy and capacity
26 benefits for residential retail customers minus the

1 measure costs recovered from those customers, divided
2 by the total number of residential retail customers,
3 which quotient shall be divided by the months in the
4 relevant period; notwithstanding this subparagraph
5 (A), a utility may elect not to include an estimate of
6 net energy savings as described in this subparagraph
7 (A), in which case the value under this subparagraph
8 (A) shall be zero; and

9 (B) for an electric utility that serves more than
10 3,000,000 retail customers in the State, the benefits
11 of the programs described in Section 16-108.10 of this
12 Act, which are \$0.00030 per kilowatthour for the 2017,
13 2018, 2019, 2020, and 2021 calendar years.

14 Beginning with the 2018 calendar year, each of the
15 values identified in subparagraphs (A) and (B) of this
16 paragraph (2) shall be equal to the average of each
17 such value during a period that commences with the
18 calendar year ending December 31, 2017 and ends with
19 the most recently completed calendar year prior to the
20 calculation or calculations required by this Section.

21 (3) For an electric utility that serves more than
22 3,000,000 retail customers in the State, the residential
23 retail customer energy efficiency charges shall be \$2.33
24 per month for the 2017 calendar year, provided that such
25 charge shall be increased by 4% per year thereafter; for an
26 electric utility that serves more than 500,000 but less

1 than 3,000,000 retail customers in the State, the
2 residential retail customer energy efficiency charges
3 shall be \$3.94 per month for the 2017 calendar year,
4 provided that such charge shall be increased by 4% per year
5 thereafter. Beginning with the 2018 calendar year, this
6 charge shall be equal to the average of the charges applied
7 over a period that commences with the calendar year ending
8 December 31, 2017 and ends with the most recently completed
9 calendar year prior to the calculation or calculations
10 required by this Section.

11 (c) (1) No later than June 30, 2017, an electric utility
12 subject to this Section shall submit a report to the
13 Commission that sets forth the utility's rolling 10-year
14 projection of the values of each of the components
15 described in paragraphs (1) through (3) of subsection (b)
16 of this Section. No later than February 15, 2018 and every
17 February 15 thereafter until February 15, 2031, each
18 utility shall submit a report to the Commission that
19 identifies the value of the actual charges applied during
20 the immediately preceding calendar year and updates its
21 rolling 10-year projection based on such actual charges
22 provided that, beginning with the February 15, 2021 report
23 and for each report thereafter, the period of time covered
24 by such projection shall not extend beyond December 31,
25 2030. Each report submitted under this subsection (c) shall
26 calculate the actual average monthly increase in

1 residential retail customers' electric bills due to future
2 energy investment costs during the immediately preceding
3 calendar year and shall also calculate the projected
4 average monthly increase in residential retail customers'
5 electric bills due to such costs over the rolling 10-year
6 period. Such calculations shall be performed by
7 subtracting the sum of paragraph (2) of subsection (b) of
8 this Section from the sum of paragraph (1) of such
9 subsection (b), multiplying such difference by, as
10 applicable, the actual or forecasted average monthly
11 kilowatthour consumption for the residential retail
12 customer class for the applicable period, and subtracting
13 from such product the applicable value identified under
14 paragraph (3) of such subsection (b).

15 If the actual or projected average monthly increase for
16 residential retail customers of electric utility that
17 serves more than 3 million retail customers in the State
18 exceeds \$0.25, or the actual or projected average monthly
19 increase for residential retail customers of an electric
20 utility that serves more than 500,000 but less than 3
21 million retail customers in the State exceeds \$0.35, then
22 the applicable utility shall comply with the provisions of
23 paragraphs (2) through (4) of this subsection (c), as
24 applicable.

25 (2) If the projected average monthly increase for
26 residential retail customers during a calendar year

1 exceeds the applicable limitation set forth in paragraph
2 (1) of this subsection (c), then the utility shall comply
3 with the following provisions, as applicable:

4 (A) If an exceedance is projected during the first
5 four calendar year of the rolling 10-year projection,
6 then the utility shall include in its report submitted
7 under paragraph (1) of this subsection (c) the
8 utility's proposal or proposals to decrease the future
9 energy investment costs described in paragraph (1) of
10 subsection (b) of this Section to ensure that the
11 limitation set forth in such paragraph (1) is not
12 exceeded. The Commission shall, after notice and
13 hearing, enter an order directing the utility to
14 implement one or more proposals, as such proposals may
15 be modified by the Commission. The Commission shall
16 have the authority under this subparagraph (A) to
17 approve modifications to the contracts executed under
18 subsection (d-5) of Section 1-75 of the Illinois Power
19 Agency Act. If the Commission approves modifications
20 to such contracts, then the supplier shall have the
21 option of accepting the modifications or terminating
22 the modified contract or contracts, subject to the
23 termination requirements and notice provisions set
24 forth in item (i) of subparagraph (B) of paragraph (4)
25 of this Section.

26 (B) If an exceedance is projected during any

1 calendar year during the last 6 years of the 10-year
2 projection, then the utility shall demonstrate in its
3 report submitted under paragraph (1) of this
4 subsection (c) how the utility will reduce the future
5 energy investment costs described in paragraph (1) of
6 subsection (b) of this Section to ensure that the
7 limitation set forth in such paragraph (1) is not
8 exceeded.

9 (3) If the actual average monthly increase for
10 residential retail customers during a calendar year
11 exceeded the limitation set forth in paragraph (1) of this
12 subsection (c), then the utility shall prepare and file
13 with the Commission, at the time it submits its report
14 under paragraph (1) of this subsection (c), a corrective
15 action plan that identifies how the utility will
16 immediately reduce expenditures so that the utility will be
17 in compliance with such limitation beginning on January 1
18 of the next calendar year. The Commission shall initiate an
19 investigation to determine the factors that contributed to
20 the actual average monthly increase exceeding such
21 limitation for the applicable calendar year, and shall,
22 after notice and hearing, enter an order approving, or
23 approving with modification, the utility's corrective
24 action plan within 120 days after the utility files such
25 plan. The Commission shall also submit a report to the
26 General Assembly no later than 30 days after it enters such

1 order, and the report shall explain the results of the
2 Commission's investigation and findings and conclusions of
3 its order.

4 (4) If the actual average monthly increase for
5 residential retail customers during a calendar year
6 exceeds the limitation set forth in paragraph (1) of this
7 subsection (c) for two consecutive years, then the utility
8 shall indicate in its report filed under paragraph (1) of
9 this subsection (c) whether the utility will proceed with
10 or terminate the future energy investments described and
11 authorized under subsection (d-5) of the Illinois Power
12 Agency Act and Sections 8-103B and 16-107.6 of this Act.
13 The utility shall be subject to the requirements of
14 subparagraph (A) or (B) of this paragraph (4), as
15 applicable.

16 (A) If the utility indicates that it will proceed
17 with the future energy investments, then it shall be
18 subject to the corrective action plan requirements set
19 forth in paragraph (3) of this subsection (c). In
20 addition, the utility must commit to apply a credit to
21 residential retail customers' bills if the actual
22 average monthly increase for such customers exceeds
23 the limitation set forth in paragraph (1) of this
24 subsection (c) for the year in which the utility files
25 its corrective action plan, which credit shall be in an
26 amount that equals the portion by which the increase

1 exceeds such limitation. The Commission shall initiate
2 an investigation to determine the factors that
3 contributed to the actual average monthly increase
4 exceeding such limitation for the applicable calendar
5 year, including an analysis of the factors
6 contributing to the limitation being exceeded for two
7 consecutive years, and shall, after notice and
8 hearing, enter an order approving, or approving with
9 modification, the utility's corrective action plan
10 within 120 days after the utility files such plan. The
11 Commission shall also submit a supplemental report to
12 the General Assembly no later than 30 days after it
13 enters such order, and the report shall explain the
14 results of the Commission's investigation and findings
15 and conclusions of its order.

16 (B) If the utility indicates that it will terminate
17 future energy investments, then the Commission shall,
18 notwithstanding anything to the contrary:

19 (i) Order the utility to terminate the
20 contract or contracts executed under subsection
21 (d-5) of Section 1-75 of the Illinois Power Agency
22 Act, pursuant to the contract termination
23 provisions set forth in such subsection (d-5),
24 provided that notice of such termination must be
25 made at least 3 years and 75 days prior to the
26 effective date of such termination. In the event

1 that only a portion of the contracts executed under
2 such subsection (d-5) are terminated for a
3 particular zero emission facility, then the zero
4 emission facility may elect to terminate all of the
5 contracts executed for that facility under such
6 subsection (d-5).

7 (ii) Within 30 days after the utility submits
8 its report indicates that it will terminate future
9 energy investments, initiate a proceeding to
10 approve the process for terminating future
11 expenditures under Section 16-107.6 of the Public
12 Utilities Act. The Commission shall, after notice
13 and hearing, enter its order approving such
14 process no later than 120 days after initiating
15 such proceeding.

16 (iii) Within 30 days after the utility submits
17 its report indicates that it will terminate future
18 energy investments, initiate a proceeding under
19 Section 8-103B of this Act to reduce the cumulative
20 persisting annual savings goals previously
21 approved by the Commission under such Section to
22 ensure just and reasonable rates. The Commission
23 shall, after notice and hearing, enter its order
24 approving such goal reductions no later than 120
25 days after initiating such proceeding.

26 Notwithstanding the termination of future energy

1 investments pursuant to this subparagraph (B), the
2 utility shall be permitted to continue to recover the
3 costs of such investments that were incurred prior to
4 such termination, including but not limited to all
5 costs that are recovered through regulatory assets
6 created under Sections 8-103B and 16-107.6 of this Act.
7 Nothing in this Section shall limit the utility's
8 ability to fully recover such costs. The utility shall
9 also be permitted to continue to recover the costs of
10 all payments made under contracts executed under
11 subsection (d-5) until the effective date of the
12 contract's termination.

13 (220 ILCS 5/16-108.16 new)

14 Sec. 16-108.16. Commercial Rate Impacts.

15 (a) Each electric utility that serves more than 500,000
16 retail customers in the State shall file with the Commission
17 the reports required by this Section, which shall identify the
18 annual average increases due to future energy investment costs
19 for the applicable period or periods in electric bills to
20 commercial and industrial retail customers. For purposes of
21 this Section, "commercial and industrial retail customers"
22 means non-residential retail customers other than those
23 customers who are exempt from subsections (a) through (j) of
24 Section 8-103B of this Act under subsection (1) of Section
25 8-103B.

1 (b) The increase determination required by subsection (a)
2 of this Section shall be based on a calculation comprised of
3 the following components:

4 (1)Beginning with the 2017 calendar year, the average
5 annual amount paid by commercial and industrial retail
6 customers, expressed on a cents-per-kilowatthour basis, to
7 recover future energy investment costs, which include the
8 charges to recover the costs incurred by the utility under
9 the following provisions:

10 (A) Sections 8-103, Section 8-103B, and 16-111.5B
11 of this Act, as applicable, and as such costs may be
12 recovered under Sections 8-103, 8-103B, 16-111.5B or
13 Section 16-108.5 of this Act;

14 (B) subsection (d-5) of Section 1-75 of the
15 Illinois Power Agency Act, as such costs may be
16 recovered under subsection (k) of Section 16-108 of
17 this Act; and

18 (C) Section 16-107.6 of this Act.

19 Beginning with the 2018 calendar year, each of the
20 average annual charges calculated in subparagraphs (A)
21 through (C) of this paragraph (1) shall be equal to the
22 average of each such charge applied over a period that
23 commences with the calendar year ending December 31, 2017
24 and ends with the most recently completed calendar year
25 prior to the calculation or calculations required by this
26 Section.

1 (2) The sum of the following:

2 (A) annual net energy savings to commercial and
3 industrial retail customers that are attributable to
4 the implementation of voltage optimization measures
5 under Section 8-103B of this Act, expressed on a
6 cents-per-kilowatthour basis, which are estimated
7 energy and capacity benefits for commercial and
8 industrial retail customers minus the measure costs
9 recovered from those customers, divided by the average
10 annual kilowatt-hour consumption of commercial and
11 industrial retail customers; notwithstanding this
12 subparagraph (A), a utility may elect not to include an
13 estimate of net energy savings as described in this
14 subparagraph (A), in which case the value under this
15 subparagraph (A) shall be zero;

16 (B) the average annual cents-per-kilowatthour
17 charge applied under Section 8-103 of this Act to
18 commercial and industrial retail customers during
19 calendar year 2016 to recover the costs authorized by
20 such Section; and

21 (C) incremental energy efficiency savings, which
22 shall be calculated by subtracting the value
23 determined in item (ii) of this subparagraph (C) from
24 the value determined in item (i) of this subparagraph
25 and dividing the difference by the value identified in
26 item (iii) of this subparagraph;

1 (i) Total value, in dollars, of the cumulative
2 persisting annual saving achieved from the
3 installation or implementation of all energy
4 efficiency measures for commercial and industrial
5 retail customers under Sections 8-103, 8-103B and
6 16-111.5 of this Act, net of the cumulative annual
7 percentage savings in kilowatt-hours, if any,
8 calculated under subparagraph (A) of this
9 paragraph (2).

10 (ii) 2016 value, which shall equal the value
11 calculated under item (i) of this subparagraph (C)
12 multiplied by the quotient of (aa) the cumulative
13 persisting annual savings, in kilowatt-hours,
14 achieved from the installation or implementation
15 of all energy efficiency measures for commercial
16 and industrial retail customers under Sections
17 8-103, 8-103B and 16-111.5B of this Act as of
18 December 31, 2016, divided by (bb) the cumulative
19 persisting annual savings, in kilowatt-hours, from
20 the installation or implementation of all energy
21 efficiency measures for commercial and industrial
22 retail customers under Sections 8-103, 8-103B and
23 16-111.5 of this Act, net of the cumulative annual
24 percentage savings in kilowatt-hours, if any,
25 calculated under subparagraph (A) of this
26 paragraph (2).

1 (iii) The average annual kilowatt-hour
2 consumption of those commercial and industrial
3 retail customers that installed or implemented
4 energy efficiency measures under energy efficiency
5 programs or plans approved pursuant to Sections
6 8-103, 8-103B or 16-111.5B of this Act.

7 Beginning with the 2018 calendar year, each of the
8 values identified in subparagraphs (A) and (C) of this
9 paragraph (2) shall be equal to the average of each
10 such value during a period that commences with the
11 calendar year ending December 31, 2017 and ends with
12 the most recently completed calendar year prior to the
13 calculation or calculations required by this Section.

14 For purposes of this Section, cumulative
15 persisting annual savings shall have the meaning set
16 forth in Section 8-103B of this Act, and energy
17 efficiency measures shall have the meaning set forth in
18 Section 1-10 of the Illinois Power Agency Act.

19 (c) (1) No later than June 30, 2017, and every June 30
20 thereafter until June 30, 2027, an electric utility subject
21 to this Section shall submit a report to the Commission
22 that sets forth the utility's 10-year projection of the
23 values of each of the components described in paragraphs
24 (1) and (2) of subsection (b) of this Section. Each
25 utility's report to the Commission shall identify the
26 result of the computation performed under this Section for

1 the immediately preceding calendar year and update its
2 10-year projection. Such calculations shall be performed
3 by subtracting the sum of paragraph (2) of subsection (b)
4 of this Section from the sum of paragraph (1) of such
5 subsection (b).

6 In the event that the actual or projected average
7 annual increase for commercial and industrial retail
8 customers exceeds 1.3% of 8.90 cents-per-kilowatthour,
9 which is the average amount paid per kilowatt-hour for
10 electric service during the year ending December 31, 2015
11 by Illinois commercial retail customers, as reported to the
12 Edison Electric Institute, then the applicable utility
13 shall comply with the provisions of paragraphs (2) through
14 (4) of this subsection (c), as applicable.

15 (2) In the event that the projected average annual
16 increase for commercial and industrial retail customers
17 during a calendar year exceeds the applicable limitation
18 set forth in paragraph (1) of this subsection (c), then the
19 utility shall comply with the following provisions, as
20 applicable:

21 (A) If an exceedance is projected during the first
22 four calendar years of the 10-year projection, then the
23 utility shall include in its report submitted under
24 paragraph (1) of this subsection (c) the utility's
25 proposal or proposals to decrease the future energy
26 investment costs described in paragraph (1) of

1 subsection (b) of this Section to ensure that the
2 limitation set forth in such paragraph (1) is not
3 exceeded. The Commission shall, after notice and
4 hearing, enter an order directing the utility to
5 implement one or more proposals, as such proposals may
6 be modified by the Commission. The Commission shall
7 have the authority under this subparagraph (A) to
8 approve modifications to the contracts executed under
9 subsection (d-5) of Section 1-75 of the Illinois Power
10 Agency Act. If the Commission approves modifications
11 to such contracts that are in an amount that reduces
12 the quantities to be procured under such contracts by
13 more than 7%, then the supplier shall have the option
14 of accepting the modifications or terminating the
15 modified contract or contracts, subject to the
16 termination requirements and notice provisions set
17 forth in item (i) of subparagraph (B) of paragraph (4)
18 of this Section.

19 (B) If an exceedance is projected during any
20 calendar year during the last 6 years of the 10-year
21 projection, then the utility shall demonstrate in its
22 report submitted under paragraph (1) of this
23 subsection (c) how the utility will reduce the future
24 energy investment costs described in paragraph (1) of
25 subsection (b) of this Section to ensure that the
26 limitation set forth in such paragraph (1) is not

1 exceeded.

2 (3) If the actual average annual increase for
3 commercial and industrial retail customers during a
4 calendar year exceeded the limitation set forth in
5 paragraph (1) of this subsection (c), then the utility
6 shall prepare and file with the Commission, at the time it
7 submits its report under paragraph (1) of this subsection
8 (c), a corrective action plan. The Commission shall
9 initiate an investigation to determine the factors that
10 contributed to the actual average annual increase
11 exceeding such limitation for the applicable calendar
12 year, and shall, after notice and hearing, enter an order
13 approving, or approving with modification, the utility's
14 corrective action plan within 120 days after the utility
15 files such plan. The Commission shall also submit a report
16 to the General Assembly no later than 30 days after it
17 enters such order, and the report shall explain the results
18 of the Commission's investigation and findings and
19 conclusions of its order.

20 (4) If the actual average annual increase for
21 commercial and industrial retail customers during a
22 calendar year exceeds the limitation set forth in paragraph
23 (1) of this subsection (c) for two consecutive years, then
24 the utility shall indicate in its report filed under
25 paragraph (1) of this subsection (c) whether the utility
26 will proceed with or terminate the future energy

1 investments described and authorized under subsection
2 (d-5) of the Illinois Power Agency Act and Sections 8-103B
3 and 16-107.6 of this Act. The utility's election shall be
4 subject to the requirements of subparagraph (A) or (B) of
5 this paragraph (4), as applicable.

6 (A) If the utility elects to proceed with the
7 future energy investments, then it shall be subject to
8 the corrective action plan requirements set forth in
9 paragraph (3) of this subsection (c). In addition, the
10 utility must commit to apply a credit to commercial and
11 industrial retail customers' bills if the actual
12 average annual increase for such customers exceeds the
13 limitation set forth in paragraph (1) of this
14 subsection (c) for the year in which the utility files
15 its corrective action plan, which credit shall be in an
16 amount that equals the portion by which the increase
17 exceeds such limitation. The Commission shall initiate
18 an investigation to determine the factors that
19 contributed to the actual average annual increase
20 exceeding such limitation for the applicable calendar
21 year, including an analysis of the factors
22 contributing to the limitation being exceeded for two
23 consecutive years, and shall, after notice and
24 hearing, enter an order approving, or approving with
25 modification, the utility's corrective action plan
26 within 120 days after the utility files such plan. The

1 Commission shall also submit a supplemental report to
2 the General Assembly no later than 30 days after it
3 enters such order, and the report shall explain the
4 results of the Commission's investigation and findings
5 and conclusions of its order.

6 (B) If the utility elects to terminate future
7 energy investments, then the Commission shall,
8 notwithstanding anything to the contrary:

9 (i) Order the utility to terminate the
10 contract or contracts executed under subsection
11 (d-5) of Section 1-75 of the Illinois Power Agency
12 Act, pursuant to the contract termination
13 provisions set forth in such subsection (d-5),
14 provided that notice of such termination must be
15 made at least 3 years and 75 days prior to the
16 effective date of such termination. In the event
17 that only a portion of the contracts executed under
18 such subsection (d-5) are terminated for a
19 particular zero emission facility, then the zero
20 emission facility may elect to terminate all of the
21 contracts executed for that facility under such
22 subsection (d-5).

23 (ii) Within 30 days of the utility's report
24 identifying its election to terminate future
25 energy investments, initiate a proceeding to
26 approve the process for terminating future

1 expenditures under Sections 16-107.6 of the Public
2 Utilities Act. The Commission shall, after notice
3 and hearing, enter its order approving such
4 process no later than 120 days after initiating
5 such proceeding.

6 (iii) Within 30 days of the utility's report
7 identifying its election to terminate future
8 energy investments, initiate a proceeding under
9 Section 8-103B of this Act to reduce the cumulative
10 persisting annual savings goals previously
11 approved by the Commission under such Section to
12 ensure just and reasonable rates. The Commission
13 shall, after notice and hearing, enter its order
14 approving such goal reductions no later than 120
15 days after initiating such proceeding.

16 Notwithstanding the termination of future energy
17 investments pursuant to this subparagraph (B), the
18 utility shall be permitted to continue to recover the
19 costs of such investments that were incurred prior to
20 such termination, including but not limited to all
21 costs that are recovered through regulatory assets
22 created under Sections 8-103B and 16-107.6 of this Act.
23 Nothing in this Section shall limit the utility's
24 ability to fully recover such costs. The utility shall
25 also be permitted to continue to recover the costs of
26 all payments made under contracts executed under

1 subsection (d-5) until the effective date of the
2 contract's termination.

3 (5) Notwithstanding anything to the contrary, if,
4 under this Section or subsection (m) of Section 16-108 of
5 this Act, modifications to the contracts executed under
6 subsection (d-5) of Section 1-75 of the Illinois Power
7 Agency Act are, in total, in an amount that reduces the
8 quantities to procured under such contracts by more than
9 10%, then the supplier shall have the option of accepting
10 the modifications or terminating the modified contract or
11 contracts, subject to the termination requirements and
12 notice provisions set forth in item (i) of subparagraph (B)
13 of paragraph (4) of this Section.

14 (220 ILCS 5/16-111.1)

15 Sec. 16-111.1. Illinois Clean Energy Community Trust.

16 (a) An electric utility which has sold or transferred
17 generating facilities in a transaction to which subsection (k)
18 of Section 16-111 applies is authorized to establish an
19 Illinois clean energy community trust or foundation for the
20 purposes of providing financial support and assistance to
21 entities, public or private, within the State of Illinois
22 including, but not limited to, units of State and local
23 government, educational institutions, corporations, and
24 charitable, educational, environmental and community
25 organizations, for programs and projects that benefit the

1 public by improving energy efficiency, developing renewable
2 energy resources, supporting other energy related projects
3 that improve the State's environmental quality, and supporting
4 projects and programs intended to preserve or enhance the
5 natural habitats and wildlife areas of the State. Provided,
6 however, that the trust or foundation funds shall not be used
7 for the remediation of environmentally impaired property. The
8 trust or foundation may also assist in identifying other energy
9 and environmental grant opportunities.

10 (b) Such trust or foundation shall be governed by a
11 declaration of trust or articles of incorporation and bylaws
12 which shall, at a minimum, provide that:

13 (1) There shall be 6 voting trustees of the trust or
14 foundation, one of whom shall be appointed by the Governor,
15 one of whom shall be appointed by the President of the
16 Illinois Senate, one of whom shall be appointed by the
17 Minority Leader of the Illinois Senate, one of whom shall
18 be appointed by the Speaker of the Illinois House of
19 Representatives, one of whom shall be appointed by the
20 Minority Leader of the Illinois House of Representatives,
21 and one of whom shall be appointed by the electric utility
22 establishing the trust or foundation, provided that the
23 voting trustee appointed by the utility shall be a
24 representative of a recognized environmental action group
25 selected by the utility. The Governor shall designate one
26 of the 6 voting trustees to serve as chairman of the trust

1 or foundation, who shall serve as chairman of the trust or
2 foundation at the pleasure of the Governor. In addition,
3 there shall be 5 ~~4~~ non-voting trustees, one of whom shall
4 be appointed by the Director of Commerce and Economic
5 Opportunity, one of whom shall be appointed by the Director
6 of the Illinois Environmental Protection Agency, one of
7 whom shall be appointed by the Director of Natural
8 Resources, and 2 ~~one~~ of whom shall be appointed by the
9 electric utility establishing the trust or foundation,
10 provided that the non-voting trustee appointed by the
11 utility shall bring financial expertise to the trust or
12 foundation and shall have appropriate credentials
13 therefor.

14 (2) All voting trustees and the non-voting trustee with
15 financial expertise shall be entitled to compensation for
16 their services as trustees, provided, however, that no
17 member of the General Assembly and no employee of the
18 electric utility establishing the trust or foundation
19 serving as a voting trustee shall receive any compensation
20 for his or her services as a trustee, and provided further
21 that the compensation to the chairman of the trust shall
22 not exceed \$25,000 annually and the compensation to any
23 other trustee shall not exceed \$20,000 annually. All
24 trustees shall be entitled to reimbursement for reasonable
25 expenses incurred on behalf of the trust in the performance
26 of their duties as trustees. All such compensation and

1 reimbursements shall be paid out of the trust.

2 (3) Trustees shall be appointed within 30 days after
3 the creation of the trust or foundation and shall serve for
4 a term of 5 years commencing upon the date of their
5 respective appointments, until their respective successors
6 are appointed and qualified.

7 (4) A vacancy in the office of trustee shall be filled
8 by the person holding the office responsible for appointing
9 the trustee whose death or resignation creates the vacancy,
10 and a trustee appointed to fill a vacancy shall serve the
11 remainder of the term of the trustee whose resignation or
12 death created the vacancy.

13 (5) The trust or foundation shall have an indefinite
14 term, and shall terminate at such time as no trust assets
15 remain.

16 (6) The trust or foundation shall be funded in the
17 minimum amount of \$250,000,000, with the allocation and
18 disbursement of funds for the various purposes for which
19 the trust or foundation is established to be determined by
20 the trustees in accordance with the declaration of trust or
21 the articles of incorporation and bylaws; provided,
22 however, that this amount may be reduced by up to
23 \$25,000,000 if, at the time the trust or foundation is
24 funded, a corresponding amount is contributed by the
25 electric utility establishing the trust or foundation to
26 the Board of Trustees of Southern Illinois University for

1 the purpose of funding programs or projects related to
2 clean coal and provided further that \$25,000,000 of the
3 amount contributed to the trust or foundation shall be
4 available to fund programs or projects related to clean
5 coal.

6 (7) The trust or foundation shall be authorized to
7 employ an executive director and other employees, to enter
8 into leases, contracts and other obligations on behalf of
9 the trust or foundation, and to incur expenses that the
10 trustees deem necessary or appropriate for the fulfillment
11 of the purposes for which the trust or foundation is
12 established, provided, however, that salaries and
13 administrative expenses incurred on behalf of the trust or
14 foundation shall not exceed \$500,000 in the first fiscal
15 year after the trust or foundation is established and shall
16 not exceed \$1,000,000 in each subsequent fiscal year.

17 (8) The trustees may create and appoint advisory boards
18 or committees to assist them with the administration of the
19 trust or foundation, and to advise and make recommendations
20 to them regarding the contribution and disbursement of the
21 trust or foundation funds.

22 (c)(1) In addition to the allocation and disbursement of
23 funds for the purposes set forth in subsection (a) of this
24 Section, the trustees of the trust or foundation shall
25 annually contribute funds in amounts set forth in
26 subparagraph (2) of this subsection to the Citizens Utility

1 Board created by the Citizens Utility Board Act; provided,
2 however, that any such funds shall be used solely for the
3 representation of the interests of utility consumers
4 before the Illinois Commerce Commission, the Federal
5 Energy Regulatory Commission, and the Federal
6 Communications Commission and for the provision of
7 consumer education on utility service and prices and on
8 benefits and methods of energy conservation. Provided,
9 however, that no part of such funds shall be used to
10 support (i) any lobbying activity, (ii) activities related
11 to fundraising, (iii) advertising or other marketing
12 efforts regarding a particular utility, or (iv)
13 solicitation of support for, or advocacy of, a particular
14 position regarding any specific utility or a utility's
15 docketed proceeding.

16 (2) In the calendar year in which the trust or
17 foundation is first funded, the trustees shall contribute
18 \$1,000,000 to the Citizens Utility Board within 60 days
19 after such trust or foundation is established; provided,
20 however, that such contribution shall be made after
21 December 31, 1999. In each of the 6 calendar years
22 subsequent to the first contribution, if the trust or
23 foundation is in existence, the trustees shall contribute
24 to the Citizens Utility Board an amount equal to the total
25 expenditures by such organization in the prior calendar
26 year, as set forth in the report filed by the Citizens

1 Utility Board with the chairman of such trust or foundation
2 as required by subparagraph (3) of this subsection. Such
3 subsequent contributions shall be made within 30 days of
4 submission by the Citizens Utility Board of such report to
5 the Chairman of the trust or foundation, but in no event
6 shall any annual contribution by the trustees to the
7 Citizens Utility Board exceed \$1,000,000. Following such
8 7-year period, an Illinois statutory consumer protection
9 agency may petition the trust or foundation for
10 contributions to fund expenditures of the type identified
11 in paragraph (1), but in no event shall annual
12 contributions by the trust or foundation for such
13 expenditures exceed \$1,000,000.

14 (3) The Citizens Utility Board shall file a report with
15 the chairman of such trust or foundation for each year in
16 which it expends any funds received from the trust or
17 foundation setting forth the amount of any expenditures
18 (regardless of the source of funds for such expenditures)
19 for: (i) the representation of the interests of utility
20 consumers before the Illinois Commerce Commission, the
21 Federal Energy Regulatory Commission, and the Federal
22 Communications Commission, and (ii) the provision of
23 consumer education on utility service and prices and on
24 benefits and methods of energy conservation. Such report
25 shall separately state the total amount of expenditures for
26 the purposes or activities identified by items (i) and (ii)

1 of this paragraph, the name and address of the external
2 recipient of any such expenditure, if applicable, and the
3 specific purposes or activities (including internal
4 purposes or activities) for which each expenditure was
5 made. Any report required by this subsection shall be filed
6 with the chairman of such trust or foundation no later than
7 March 31 of the year immediately following the year for
8 which the report is required.

9 (d) In addition to any other allocation and disbursement of
10 funds in this Section, the trustees of the trust or foundation
11 shall contribute an amount up to \$125,000,000 (1) for deposit
12 into the General Obligation Bond Retirement and Interest Fund
13 held in the State treasury to assist in the repayment on
14 general obligation bonds issued under subsection (d) of Section
15 7 of the General Obligation Bond Act, and (2) for deposit into
16 funds administered by agencies with responsibility for
17 environmental activities to assist in payment for
18 environmental programs. The amount required to be contributed
19 shall be provided to the trustees in a certification letter
20 from the Director of the Bureau of the Budget that shall be
21 provided no later than August 1, 2003. The payment from the
22 trustees shall be paid to the State no later than December 31st
23 following the receipt of the letter.

24 (Source: P.A. 93-32, eff. 6-20-03; 94-793, eff. 5-19-06.)

25 (220 ILCS 5/16-111.5)

1 Sec. 16-111.5. Provisions relating to procurement.

2 (a) An electric utility that on December 31, 2005 served at
3 least 100,000 customers in Illinois shall procure power and
4 energy for its eligible retail customers in accordance with the
5 applicable provisions set forth in Section 1-75 of the Illinois
6 Power Agency Act and this Section. Beginning with the delivery
7 year commencing on June 1, 2017, such electric utility shall
8 also procure zero emission credits from zero emission
9 facilities in accordance with the applicable provisions set
10 forth in Section 1-75 of the Illinois Power Agency Act, and,
11 for years beginning on or after June 1, 2017, the utility shall
12 procure renewable energy resources in accordance with the
13 applicable provisions set forth in Section 1-75 of the Illinois
14 Power Agency Act and this Section. A small multi-jurisdictional
15 electric utility that on December 31, 2005 served less than
16 100,000 customers in Illinois may elect to procure power and
17 energy for all or a portion of its eligible Illinois retail
18 customers in accordance with the applicable provisions set
19 forth in this Section and Section 1-75 of the Illinois Power
20 Agency Act. This Section shall not apply to a small
21 multi-jurisdictional utility until such time as a small
22 multi-jurisdictional utility requests the Illinois Power
23 Agency to prepare a procurement plan for its eligible retail
24 customers. "Eligible retail customers" for the purposes of this
25 Section means those retail customers that purchase power and
26 energy from the electric utility under fixed-price bundled

1 service tariffs, other than those retail customers whose
2 service is declared or deemed competitive under Section 16-113
3 and those other customer groups specified in this Section,
4 including self-generating customers, customers electing hourly
5 pricing, or those customers who are otherwise ineligible for
6 fixed-price bundled tariff service. For those ~~Those~~ customers
7 that are excluded from the ~~definition of "eligible retail~~
8 ~~customers"~~ shall not be included in the procurement plan's
9 electric supply service plan ~~load~~ requirements, and the utility
10 shall procure any supply requirements, including capacity,
11 ancillary services, and hourly priced energy, in the applicable
12 markets as needed to serve those customers, provided that the
13 utility may include in its procurement plan load requirements
14 for the load that is associated with those retail customers
15 whose service has been declared or deemed competitive pursuant
16 to Section 16-113 of this Act to the extent that those
17 customers are purchasing power and energy during one of the
18 transition periods identified in subsection (b) of Section
19 16-113 of this Act.

20 (b) A procurement plan shall be prepared for each electric
21 utility consistent with the applicable requirements of the
22 Illinois Power Agency Act and this Section. For purposes of
23 this Section, Illinois electric utilities that are affiliated
24 by virtue of a common parent company are considered to be a
25 single electric utility. Small multi-jurisdictional utilities
26 may request a procurement plan for a portion of or all of its

1 Illinois load. Each procurement plan shall analyze the
2 projected balance of supply and demand for those retail
3 customers to be included in the plan's electric supply service
4 requirements ~~eligible retail customers~~ over a 5-year period,
5 with the first planning year beginning on June 1 of the year
6 following the year in which the plan is filed. The plan shall
7 specifically identify the wholesale products to be procured
8 following plan approval, and shall follow all the requirements
9 set forth in the Public Utilities Act and all applicable State
10 and federal laws, statutes, rules, or regulations, as well as
11 Commission orders. Nothing in this Section precludes
12 consideration of contracts longer than 5 years and related
13 forecast data. Unless specified otherwise in this Section, in
14 the procurement plan or in the implementing tariff, any
15 procurement occurring in accordance with this plan shall be
16 competitively bid through a request for proposals process.
17 Approval and implementation of the procurement plan shall be
18 subject to review and approval by the Commission according to
19 the provisions set forth in this Section. A procurement plan
20 shall include each of the following components:

21 (1) Hourly load analysis. This analysis shall include:

22 (i) multi-year historical analysis of hourly
23 loads;

24 (ii) switching trends and competitive retail
25 market analysis;

26 (iii) known or projected changes to future loads;

1 and

2 (iv) growth forecasts by customer class.

3 (2) Analysis of the impact of any demand side and
4 renewable energy initiatives. This analysis shall include:

5 (i) the impact of demand response programs and
6 energy efficiency programs, both current and
7 projected; for small multi-jurisdictional utilities,
8 the impact of demand response and energy efficiency
9 programs approved pursuant to Section 8-408 of this
10 Act, both current and projected; and

11 (ii) supply side needs that are projected to be
12 offset by purchases of renewable energy resources, if
13 any.

14 (3) A plan for meeting the expected load requirements
15 that will not be met through preexisting contracts. This
16 plan shall include:

17 (i) definitions of the different Illinois retail
18 customer classes for which supply is being purchased;

19 (ii) the proposed mix of demand-response products
20 for which contracts will be executed during the next
21 year. For small multi-jurisdictional electric
22 utilities that on December 31, 2005 served fewer than
23 100,000 customers in Illinois, these shall be defined
24 as demand-response products offered in an energy
25 efficiency plan approved pursuant to Section 8-408 of
26 this Act. The cost-effective demand-response measures

1 shall be procured whenever the cost is lower than
2 procuring comparable capacity products, provided that
3 such products shall:

4 (A) be procured by a demand-response provider
5 from those ~~eligible~~ retail customers included in
6 the plan's electric supply service requirements;

7 (B) at least satisfy the demand-response
8 requirements of the regional transmission
9 organization market in which the utility's service
10 territory is located, including, but not limited
11 to, any applicable capacity or dispatch
12 requirements;

13 (C) provide for customers' participation in
14 the stream of benefits produced by the
15 demand-response products;

16 (D) provide for reimbursement by the
17 demand-response provider of the utility for any
18 costs incurred as a result of the failure of the
19 supplier of such products to perform its
20 obligations thereunder; and

21 (E) meet the same credit requirements as apply
22 to suppliers of capacity, in the applicable
23 regional transmission organization market;

24 (iii) monthly forecasted system supply
25 requirements, including expected minimum, maximum, and
26 average values for the planning period;

1 (iv) the proposed mix and selection of standard
2 wholesale products for which contracts will be
3 executed during the next year, separately or in
4 combination, to meet that portion of its load
5 requirements not met through pre-existing contracts,
6 including but not limited to monthly 5 x 16 peak period
7 block energy, monthly off-peak wrap energy, monthly 7 x
8 24 energy, annual 5 x 16 energy, annual off-peak wrap
9 energy, annual 7 x 24 energy, monthly capacity, annual
10 capacity, peak load capacity obligations, capacity
11 purchase plan, and ancillary services;

12 (v) proposed term structures for each wholesale
13 product type included in the proposed procurement plan
14 portfolio of products; and

15 (vi) an assessment of the price risk, load
16 uncertainty, and other factors that are associated
17 with the proposed procurement plan; this assessment,
18 to the extent possible, shall include an analysis of
19 the following factors: contract terms, time frames for
20 securing products or services, fuel costs, weather
21 patterns, transmission costs, market conditions, and
22 the governmental regulatory environment; the proposed
23 procurement plan shall also identify alternatives for
24 those portfolio measures that are identified as having
25 significant price risk.

26 (4) Proposed procedures for balancing loads. The

1 procurement plan shall include, for load requirements
2 included in the procurement plan, the process for (i)
3 hourly balancing of supply and demand and (ii) the criteria
4 for portfolio re-balancing in the event of significant
5 shifts in load.

6 (5) Long-Term Renewable Resources Procurement Plan.
7 The Agency shall prepare a long-term renewable resources
8 procurement plan for the procurement of renewable energy
9 credits under Sections 1-56 and 1-75 of the Illinois Power
10 Agency Act for delivery beginning in the 2017 delivery
11 year.

12 (i) The initial long-term renewable resources
13 procurement plan and all subsequent revisions shall be
14 subject to review and approval by the Commission. For
15 the purposes of this Section, "delivery year" has the
16 same meaning as in Section 1-10 of the Illinois Power
17 Agency Act. For purposes of this Section, "Agency"
18 shall mean the Illinois Power Agency.

19 (ii) The long-term renewable resources planning
20 process shall be conducted as follows:

21 (A) Electric utilities shall provide a range
22 of load forecasts to the Illinois Power Agency
23 within 45 days of the Agency's request for
24 forecasts, which request shall specify the length
25 and conditions for the forecasts including, but
26 not limited to, the quantity of distributed

1 generation expected to be interconnected for each
2 year.

3 (B) The Agency shall publish for comment the
4 initial long-term renewable resources procurement
5 plan no later than 120 days after the effective
6 date of this amendatory Act of the 99th General
7 Assembly and shall review, and may revise, the plan
8 at least every 2 years thereafter. To the extent
9 practicable, the Agency shall review and propose
10 any revisions to the long-term renewable energy
11 resources procurement plan in conjunction with the
12 Agency's other planning and approval processes
13 conducted under this Section. The initial
14 long-term renewable resources procurement plan
15 shall:

16 (aa) Identify the procurement programs and
17 competitive procurement events consistent with
18 the applicable requirements of the Illinois
19 Power Agency Act and shall be designed to
20 achieve the goals set forth in subsection (c)
21 of Section 1-75 of that Act.

22 (bb) Include a schedule for procurements
23 for renewable energy credits from
24 utility-scale wind projects, utility-scale
25 solar projects, and brownfield site
26 photovoltaic projects consistent with

1 subparagraph (G) of paragraph (1) of
2 subsection (c) of Section 1-75 of the Illinois
3 Power Agency Act.

4 (cc) Identify the process whereby the
5 Agency will submit to the Commission for review
6 and approval the proposed contracts to
7 implement the programs required by such plan.

8 Copies of the initial long-term renewable
9 resources procurement plan and all subsequent
10 revisions shall be posted and made publicly
11 available on the Agency's and Commission's
12 websites, and copies shall also be provided to each
13 affected electric utility. An affected utility and
14 other interested parties shall have 45 days
15 following the date of posting to provide comment to
16 the Agency on the initial long-term renewable
17 resources procurement plan and all subsequent
18 revisions. All comments submitted to the Agency
19 shall be specific, supported by data or other
20 detailed analyses, and, if objecting to all or a
21 portion of the procurement plan, accompanied by
22 specific alternative wording or proposals. All
23 comments shall be posted on the Agency's and
24 Commission's websites. During this 45-day comment
25 period, the Agency shall hold at least one public
26 hearing within each utility's service area that is

1 subject to the requirements of this paragraph (5)
2 for the purpose of receiving public comment.
3 Within 21 days following the end of the 45-day
4 review period, the Agency may revise the long-term
5 renewable resources procurement plan based on the
6 comments received and shall file the plan with the
7 Commission for review and approval.

8 (C) Within 14 days after the filing of the
9 initial long-term renewable resources procurement
10 plan or any subsequent revisions, any person
11 objecting to the plan may file an objection with
12 the Commission. Within 21 days after the filing of
13 the plan, the Commission shall determine whether a
14 hearing is necessary. The Commission shall enter
15 its order confirming or modifying the initial
16 long-term renewable resources procurement plan or
17 any subsequent revisions within 120 days after the
18 filing of the plan by the Illinois Power Agency.

19 (D) The Commission shall approve the initial
20 long-term renewable resources procurement plan and
21 any subsequent revisions, including expressly the
22 forecast used in the plan and taking into account
23 that funding will be limited to the amount of
24 revenues actually collected by the utilities, if
25 the Commission determines that the plan will
26 reasonably and prudently accomplish the

1 requirements of Section 1-56 and subsection (c) of
2 Section 1-75 of the Illinois Power Agency Act. The
3 Commission shall also approve the process for the
4 submission, review, and approval of the proposed
5 contracts to procure renewable energy credits or
6 implement the programs authorized by the
7 Commission pursuant to a long-term renewable
8 resources procurement plan approved under this
9 Section.

10 (iii) The Agency or third parties contracted by the
11 Agency shall implement all programs authorized by the
12 Commission in an approved long-term renewable
13 resources procurement plan without further review and
14 approval by the Commission. Third parties shall not
15 begin implementing any programs or receive any payment
16 under this Section until the Commission has approved
17 the contract or contracts under the process authorized
18 by the Commission in item (D) of subparagraph (ii) of
19 paragraph (5) of this subsection (b) and the third
20 party and the Agency or utility, as applicable, have
21 executed the contract. For those renewable energy
22 credits subject to procurement through a competitive
23 bid process under the plan or under the initial forward
24 procurements for wind and solar resources described in
25 subparagraph (G) of paragraph (1) of subsection (c) of
26 Section 1-75 of the Illinois Power Agency Act, the

1 Agency shall follow the procurement process specified
2 in the provisions relating to electricity procurement
3 in subsections (e) through (i) of this Section.

4 (iv) An electric utility shall recover its costs
5 associated with the procurement of renewable energy
6 credits under this Section through an automatic
7 adjustment clause tariff under subsection (k) of
8 Section 16-108 of this Act. A utility shall not be
9 required to advance any payment or pay any amounts
10 under this Section that exceed the actual amount of
11 revenues collected by the utility under paragraph (6)
12 of subsection (c) of Section 1-75 of the Illinois Power
13 Agency Act and subsection (k) of Section 16-108 of this
14 Act, and contracts executed under this Section shall
15 expressly incorporate this limitation.

16 (v) For the public interest, safety, and welfare,
17 the Agency and the Commission may adopt rules to carry
18 out the provisions of this Section on an emergency
19 basis immediately following the effective date of this
20 amendatory Act of the 99th General Assembly.

21 (vi) On or before July 1 of each year, the
22 Commission shall hold an informal hearing for the
23 purpose of receiving comments on the prior year's
24 procurement process and any recommendations for
25 change.

26 (c) The procurement process set forth in Section 1-75 of

1 the Illinois Power Agency Act and subsection (e) of this
2 Section shall be administered by a procurement administrator
3 and monitored by a procurement monitor.

4 (1) The procurement administrator shall:

5 (i) design the final procurement process in
6 accordance with Section 1-75 of the Illinois Power
7 Agency Act and subsection (e) of this Section following
8 Commission approval of the procurement plan;

9 (ii) develop benchmarks in accordance with
10 subsection (e)(3) to be used to evaluate bids; these
11 benchmarks shall be submitted to the Commission for
12 review and approval on a confidential basis prior to
13 the procurement event;

14 (iii) serve as the interface between the electric
15 utility and suppliers;

16 (iv) manage the bidder pre-qualification and
17 registration process;

18 (v) obtain the electric utilities' agreement to
19 the final form of all supply contracts and credit
20 collateral agreements;

21 (vi) administer the request for proposals process;

22 (vii) have the discretion to negotiate to
23 determine whether bidders are willing to lower the
24 price of bids that meet the benchmarks approved by the
25 Commission; any post-bid negotiations with bidders
26 shall be limited to price only and shall be completed

1 within 24 hours after opening the sealed bids and shall
2 be conducted in a fair and unbiased manner; in
3 conducting the negotiations, there shall be no
4 disclosure of any information derived from proposals
5 submitted by competing bidders; if information is
6 disclosed to any bidder, it shall be provided to all
7 competing bidders;

8 (viii) maintain confidentiality of supplier and
9 bidding information in a manner consistent with all
10 applicable laws, rules, regulations, and tariffs;

11 (ix) submit a confidential report to the
12 Commission recommending acceptance or rejection of
13 bids;

14 (x) notify the utility of contract counterparties
15 and contract specifics; and

16 (xi) administer related contingency procurement
17 events.

18 (2) The procurement monitor, who shall be retained by
19 the Commission, shall:

20 (i) monitor interactions among the procurement
21 administrator, suppliers, and utility;

22 (ii) monitor and report to the Commission on the
23 progress of the procurement process;

24 (iii) provide an independent confidential report
25 to the Commission regarding the results of the
26 procurement event;

1 (iv) assess compliance with the procurement plans
2 approved by the Commission for each utility that on
3 December 31, 2005 provided electric service to at a
4 least 100,000 customers in Illinois and for each small
5 multi-jurisdictional utility that on December 31, 2005
6 served less than 100,000 customers in Illinois;

7 (v) preserve the confidentiality of supplier and
8 bidding information in a manner consistent with all
9 applicable laws, rules, regulations, and tariffs;

10 (vi) provide expert advice to the Commission and
11 consult with the procurement administrator regarding
12 issues related to procurement process design, rules,
13 protocols, and policy-related matters; and

14 (vii) consult with the procurement administrator
15 regarding the development and use of benchmark
16 criteria, standard form contracts, credit policies,
17 and bid documents.

18 (d) Except as provided in subsection (j), the planning
19 process shall be conducted as follows:

20 (1) Beginning in 2008, each Illinois utility procuring
21 power pursuant to this Section shall annually provide a
22 range of load forecasts to the Illinois Power Agency by
23 July 15 of each year, or such other date as may be required
24 by the Commission or Agency. The load forecasts shall cover
25 the 5-year procurement planning period for the next
26 procurement plan and shall include hourly data

1 representing a high-load, low-load, and expected-load
2 scenario for the load of those ~~the eligible~~ retail
3 customers included in the plan's electric supply service
4 requirements. The utility shall provide supporting data
5 and assumptions for each of the scenarios.

6 (2) Beginning in 2008, the Illinois Power Agency shall
7 prepare a procurement plan by August 15th of each year, or
8 such other date as may be required by the Commission. The
9 procurement plan shall identify the portfolio of
10 demand-response and power and energy products to be
11 procured. Cost-effective demand-response measures shall be
12 procured as set forth in item (iii) of subsection (b) of
13 this Section. Copies of the procurement plan shall be
14 posted and made publicly available on the Agency's and
15 Commission's websites, and copies shall also be provided to
16 each affected electric utility. An affected utility shall
17 have 30 days following the date of posting to provide
18 comment to the Agency on the procurement plan. Other
19 interested entities also may comment on the procurement
20 plan. All comments submitted to the Agency shall be
21 specific, supported by data or other detailed analyses,
22 and, if objecting to all or a portion of the procurement
23 plan, accompanied by specific alternative wording or
24 proposals. All comments shall be posted on the Agency's and
25 Commission's websites. During this 30-day comment period,
26 the Agency shall hold at least one public hearing within

1 each utility's service area for the purpose of receiving
2 public comment on the procurement plan. Within 14 days
3 following the end of the 30-day review period, the Agency
4 shall revise the procurement plan as necessary based on the
5 comments received and file the procurement plan with the
6 Commission and post the procurement plan on the websites.

7 (3) Within 5 days after the filing of the procurement
8 plan, any person objecting to the procurement plan shall
9 file an objection with the Commission. Within 10 days after
10 the filing, the Commission shall determine whether a
11 hearing is necessary. The Commission shall enter its order
12 confirming or modifying the procurement plan within 90 days
13 after the filing of the procurement plan by the Illinois
14 Power Agency.

15 (4) The Commission shall approve the procurement plan,
16 including expressly the forecast used in the procurement
17 plan, if the Commission determines that it will ensure
18 adequate, reliable, affordable, efficient, and
19 environmentally sustainable electric service at the lowest
20 total cost over time, taking into account any benefits of
21 price stability.

22 (e) The procurement process shall include each of the
23 following components:

24 (1) Solicitation, pre-qualification, and registration
25 of bidders. The procurement administrator shall
26 disseminate information to potential bidders to promote a

1 procurement event, notify potential bidders that the
2 procurement administrator may enter into a post-bid price
3 negotiation with bidders that meet the applicable
4 benchmarks, provide supply requirements, and otherwise
5 explain the competitive procurement process. In addition
6 to such other publication as the procurement administrator
7 determines is appropriate, this information shall be
8 posted on the Illinois Power Agency's and the Commission's
9 websites. The procurement administrator shall also
10 administer the prequalification process, including
11 evaluation of credit worthiness, compliance with
12 procurement rules, and agreement to the standard form
13 contract developed pursuant to paragraph (2) of this
14 subsection (e). The procurement administrator shall then
15 identify and register bidders to participate in the
16 procurement event.

17 (2) Standard contract forms and credit terms and
18 instruments. The procurement administrator, in
19 consultation with the utilities, the Commission, and other
20 interested parties and subject to Commission oversight,
21 shall develop and provide standard contract forms for the
22 supplier contracts that meet generally accepted industry
23 practices. Standard credit terms and instruments that meet
24 generally accepted industry practices shall be similarly
25 developed. The procurement administrator shall make
26 available to the Commission all written comments it

1 receives on the contract forms, credit terms, or
2 instruments. If the procurement administrator cannot reach
3 agreement with the applicable electric utility as to the
4 contract terms and conditions, the procurement
5 administrator must notify the Commission of any disputed
6 terms and the Commission shall resolve the dispute. The
7 terms of the contracts shall not be subject to negotiation
8 by winning bidders, and the bidders must agree to the terms
9 of the contract in advance so that winning bids are
10 selected solely on the basis of price.

11 (3) Establishment of a market-based price benchmark.
12 As part of the development of the procurement process, the
13 procurement administrator, in consultation with the
14 Commission staff, Agency staff, and the procurement
15 monitor, shall establish benchmarks for evaluating the
16 final prices in the contracts for each of the products that
17 will be procured through the procurement process. The
18 benchmarks shall be based on price data for similar
19 products for the same delivery period and same delivery
20 hub, or other delivery hubs after adjusting for that
21 difference. The price benchmarks may also be adjusted to
22 take into account differences between the information
23 reflected in the underlying data sources and the specific
24 products and procurement process being used to procure
25 power for the Illinois utilities. The benchmarks shall be
26 confidential but shall be provided to, and will be subject

1 to Commission review and approval, prior to a procurement
2 event.

3 (4) Request for proposals competitive procurement
4 process. The procurement administrator shall design and
5 issue a request for proposals to supply electricity in
6 accordance with each utility's procurement plan, as
7 approved by the Commission. The request for proposals shall
8 set forth a procedure for sealed, binding commitment
9 bidding with pay-as-bid settlement, and provision for
10 selection of bids on the basis of price.

11 (5) A plan for implementing contingencies in the event
12 of supplier default or failure of the procurement process
13 to fully meet the expected load requirement due to
14 insufficient supplier participation, Commission rejection
15 of results, or any other cause.

16 (i) Event of supplier default: In the event of
17 supplier default, the utility shall review the
18 contract of the defaulting supplier to determine if the
19 amount of supply is 200 megawatts or greater, and if
20 there are more than 60 days remaining of the contract
21 term. If both of these conditions are met, and the
22 default results in termination of the contract, the
23 utility shall immediately notify the Illinois Power
24 Agency that a request for proposals must be issued to
25 procure replacement power, and the procurement
26 administrator shall run an additional procurement

1 event. If the contracted supply of the defaulting
2 supplier is less than 200 megawatts or there are less
3 than 60 days remaining of the contract term, the
4 utility shall procure power and energy from the
5 applicable regional transmission organization market,
6 including ancillary services, capacity, and day-ahead
7 or real time energy, or both, for the duration of the
8 contract term to replace the contracted supply;
9 provided, however, that if a needed product is not
10 available through the regional transmission
11 organization market it shall be purchased from the
12 wholesale market.

13 (ii) Failure of the procurement process to fully
14 meet the expected load requirement: If the procurement
15 process fails to fully meet the expected load
16 requirement due to insufficient supplier participation
17 or due to a Commission rejection of the procurement
18 results, the procurement administrator, the
19 procurement monitor, and the Commission staff shall
20 meet within 10 days to analyze potential causes of low
21 supplier interest or causes for the Commission
22 decision. If changes are identified that would likely
23 result in increased supplier participation, or that
24 would address concerns causing the Commission to
25 reject the results of the prior procurement event, the
26 procurement administrator may implement those changes

1 and rerun the request for proposals process according
2 to a schedule determined by those parties and
3 consistent with Section 1-75 of the Illinois Power
4 Agency Act and this subsection. In any event, a new
5 request for proposals process shall be implemented by
6 the procurement administrator within 90 days after the
7 determination that the procurement process has failed
8 to fully meet the expected load requirement.

9 (iii) In all cases where there is insufficient
10 supply provided under contracts awarded through the
11 procurement process to fully meet the electric
12 utility's load requirement, the utility shall meet the
13 load requirement by procuring power and energy from the
14 applicable regional transmission organization market,
15 including ancillary services, capacity, and day-ahead
16 or real time energy, or both; provided, however, that
17 if a needed product is not available through the
18 regional transmission organization market it shall be
19 purchased from the wholesale market.

20 (6) The procurement process described in this
21 subsection is exempt from the requirements of the Illinois
22 Procurement Code, pursuant to Section 20-10 of that Code.

23 (f) Within 2 business days after opening the sealed bids,
24 the procurement administrator shall submit a confidential
25 report to the Commission. The report shall contain the results
26 of the bidding for each of the products along with the

1 procurement administrator's recommendation for the acceptance
2 and rejection of bids based on the price benchmark criteria and
3 other factors observed in the process. The procurement monitor
4 also shall submit a confidential report to the Commission
5 within 2 business days after opening the sealed bids. The
6 report shall contain the procurement monitor's assessment of
7 bidder behavior in the process as well as an assessment of the
8 procurement administrator's compliance with the procurement
9 process and rules. The Commission shall review the confidential
10 reports submitted by the procurement administrator and
11 procurement monitor, and shall accept or reject the
12 recommendations of the procurement administrator within 2
13 business days after receipt of the reports.

14 (g) Within 3 business days after the Commission decision
15 approving the results of a procurement event, the utility shall
16 enter into binding contractual arrangements with the winning
17 suppliers using the standard form contracts; except that the
18 utility shall not be required either directly or indirectly to
19 execute the contracts if a tariff that is consistent with
20 subsection (1) of this Section has not been approved and placed
21 into effect for that utility.

22 (h) The names of the successful bidders and the load
23 weighted average of the winning bid prices for each contract
24 type and for each contract term shall be made available to the
25 public at the time of Commission approval of a procurement
26 event. The Commission, the procurement monitor, the

1 procurement administrator, the Illinois Power Agency, and all
2 participants in the procurement process shall maintain the
3 confidentiality of all other supplier and bidding information
4 in a manner consistent with all applicable laws, rules,
5 regulations, and tariffs. Confidential information, including
6 the confidential reports submitted by the procurement
7 administrator and procurement monitor pursuant to subsection
8 (f) of this Section, shall not be made publicly available and
9 shall not be discoverable by any party in any proceeding,
10 absent a compelling demonstration of need, nor shall those
11 reports be admissible in any proceeding other than one for law
12 enforcement purposes.

13 (i) Within 2 business days after a Commission decision
14 approving the results of a procurement event or such other date
15 as may be required by the Commission from time to time, the
16 utility shall file for informational purposes with the
17 Commission its actual or estimated retail supply charges, as
18 applicable, by customer supply group reflecting the costs
19 associated with the procurement and computed in accordance with
20 the tariffs filed pursuant to subsection (l) of this Section
21 and approved by the Commission.

22 (j) Within 60 days following August 28, 2007 (the effective
23 date of Public Act 95-481) ~~this amendatory Act~~, each electric
24 utility that on December 31, 2005 provided electric service to
25 at least 100,000 customers in Illinois shall prepare and file
26 with the Commission an initial procurement plan, which shall

1 conform in all material respects to the requirements of the
2 procurement plan set forth in subsection (b); provided,
3 however, that the Illinois Power Agency Act shall not apply to
4 the initial procurement plan prepared pursuant to this
5 subsection. The initial procurement plan shall identify the
6 portfolio of power and energy products to be procured and
7 delivered for the period June 2008 through May 2009, and shall
8 identify the proposed procurement administrator, who shall
9 have the same experience and expertise as is required of a
10 procurement administrator hired pursuant to Section 1-75 of the
11 Illinois Power Agency Act. Copies of the procurement plan shall
12 be posted and made publicly available on the Commission's
13 website. The initial procurement plan may include contracts for
14 renewable resources that extend beyond May 2009.

15 (i) Within 14 days following filing of the initial
16 procurement plan, any person may file a detailed objection
17 with the Commission contesting the procurement plan
18 submitted by the electric utility. All objections to the
19 electric utility's plan shall be specific, supported by
20 data or other detailed analyses. The electric utility may
21 file a response to any objections to its procurement plan
22 within 7 days after the date objections are due to be
23 filed. Within 7 days after the date the utility's response
24 is due, the Commission shall determine whether a hearing is
25 necessary. If it determines that a hearing is necessary, it
26 shall require the hearing to be completed and issue an

1 order on the procurement plan within 60 days after the
2 filing of the procurement plan by the electric utility.

3 (ii) The order shall approve or modify the procurement
4 plan, approve an independent procurement administrator,
5 and approve or modify the electric utility's tariffs that
6 are proposed with the initial procurement plan. The
7 Commission shall approve the procurement plan if the
8 Commission determines that it will ensure adequate,
9 reliable, affordable, efficient, and environmentally
10 sustainable electric service at the lowest total cost over
11 time, taking into account any benefits of price stability.

12 (k) (Blank). ~~In order to promote price stability for~~
13 ~~residential and small commercial customers during the~~
14 ~~transition to competition in Illinois, and notwithstanding any~~
15 ~~other provision of this Act, each electric utility subject to~~
16 ~~this Section shall enter into one or more multi year financial~~
17 ~~swap contracts that become effective on the effective date of~~
18 ~~this amendatory Act. These contracts may be executed with~~
19 ~~generators and power marketers, including affiliated interests~~
20 ~~of the electric utility. These contracts shall be for a term of~~
21 ~~no more than 5 years and shall, for each respective utility or~~
22 ~~for any Illinois electric utilities that are affiliated by~~
23 ~~virtue of a common parent company and that are thereby~~
24 ~~considered a single electric utility for purposes of this~~
25 ~~subsection (k), not exceed in the aggregate 3,000 megawatts for~~
26 ~~any hour of the year. The contracts shall be financial~~

1 ~~contracts and not energy sales contracts. The contracts shall~~
2 ~~be executed as transactions under a negotiated master agreement~~
3 ~~based on the form of master agreement for financial swap~~
4 ~~contracts sponsored by the International Swaps and Derivatives~~
5 ~~Association, Inc. and shall be considered pre existing~~
6 ~~contracts in the utilities' procurement plans for residential~~
7 ~~and small commercial customers. Costs incurred pursuant to a~~
8 ~~contract authorized by this subsection (k) shall be deemed~~
9 ~~prudently incurred and reasonable in amount and the electric~~
10 ~~utility shall be entitled to full cost recovery pursuant to the~~
11 ~~tariffs filed with the Commission.~~

12 (k-5) (Blank). ~~In order to promote price stability for~~
13 ~~residential and small commercial customers during the~~
14 ~~infrastructure investment program described in subsection (b)~~
15 ~~of Section 16-108.5 of this Act, and notwithstanding any other~~
16 ~~provision of this Act or the Illinois Power Agency Act, for~~
17 ~~each electric utility that serves more than one million retail~~
18 ~~customers in Illinois, the Illinois Power Agency shall conduct~~
19 ~~a procurement event within 120 days after October 26, 2011 (the~~
20 ~~effective date of Public Act 97-616) and may procure contracts~~
21 ~~for energy and renewable energy credits for the period June 1,~~
22 ~~2013 through December 31, 2017 that satisfy the requirements of~~
23 ~~this subsection (k-5), including the benchmarks described in~~
24 ~~this subsection. These contracts shall be entered into as the~~
25 ~~result of a competitive procurement event, and, to the extent~~
26 ~~that any provisions of this Section or the Illinois Power~~

1 ~~Agency Act do not conflict with this subsection (k-5), such~~
2 ~~provisions shall apply to the procurement event. The energy~~
3 ~~contracts shall be for 24 hour by 7 day supply over a term that~~
4 ~~runs from the first delivery year through December 31, 2017.~~
5 ~~For a utility that serves over 2 million customers, the energy~~
6 ~~contracts shall be multi year with pricing escalating at 2.5%~~
7 ~~per annum. The energy contracts may be designed as financial~~
8 ~~swaps or may require physical delivery.~~

9 ~~Within 30 days of October 26, 2011 (the effective date of~~
10 ~~Public Act 97-616), each such utility shall submit to the~~
11 ~~Agency updated load forecasts for the period June 1, 2013~~
12 ~~through December 31, 2017. The megawatt volume of the contracts~~
13 ~~shall be based on the updated load forecasts of the minimum~~
14 ~~monthly on peak or off peak average load requirements shown in~~
15 ~~the forecasts, taking into account any existing energy~~
16 ~~contracts in effect as well as the expected migration of the~~
17 ~~utility's customers to alternative retail electric suppliers.~~
18 ~~The renewable energy credit volume shall be based on the number~~
19 ~~of credits that would satisfy the requirements of subsection~~
20 ~~(c) of Section 1-75 of the Illinois Power Agency Act, subject~~
21 ~~to the rate impact caps and other provisions of subsection (c)~~
22 ~~of Section 1-75 of the Illinois Power Agency Act. The~~
23 ~~evaluation of contract bids in the competitive procurement~~
24 ~~events for energy and for renewable energy credits shall~~
25 ~~incorporate price benchmarks set collaboratively by the~~
26 ~~Agency, the procurement administrator, the staff of the~~

~~Commission, and the procurement monitor. If the contracts are swap contracts, then they shall be executed as transactions under a negotiated master agreement based on the form of master agreement for financial swap contracts sponsored by the International Swaps and Derivatives Association, Inc. Costs incurred pursuant to a contract authorized by this subsection (k-5) shall be deemed prudently incurred and reasonable in amount and the electric utility shall be entitled to full cost recovery pursuant to the tariffs filed with the Commission.~~

~~The cost of administering the procurement event described in this subsection (k-5) shall be paid by the winning supplier or suppliers to the procurement administrator through a supplier fee. In the event that there is no winning supplier for a particular utility, such utility will pay the procurement administrator for the costs associated with the procurement event, and those costs shall not be a recoverable expense. Nothing in this subsection (k-5) is intended to alter the recovery of costs for any other procurement event.~~

(1) An electric utility shall recover its costs incurred under this Section, including, but not limited to, the costs of procuring power and energy demand-response resources under this Section. The utility shall file with the initial procurement plan its proposed tariffs through which its costs of procuring power that are incurred pursuant to a Commission-approved procurement plan and those other costs identified in this subsection (1), will be recovered. The

1 tariffs shall include a formula rate or charge designed to pass
2 through both the costs incurred by the utility in procuring a
3 supply of electric power and energy for the applicable customer
4 classes with no mark-up or return on the price paid by the
5 utility for that supply, plus any just and reasonable costs
6 that the utility incurs in arranging and providing for the
7 supply of electric power and energy. The formula rate or charge
8 shall also contain provisions that ensure that its application
9 does not result in over or under recovery due to changes in
10 customer usage and demand patterns, and that provide for the
11 correction, on at least an annual basis, of any accounting
12 errors that may occur. A utility shall recover through the
13 tariff all reasonable costs incurred to implement or comply
14 with any procurement plan that is developed and put into effect
15 pursuant to Section 1-75 of the Illinois Power Agency Act and
16 this Section, including any fees assessed by the Illinois Power
17 Agency, costs associated with load balancing, and contingency
18 plan costs. The electric utility shall also recover its full
19 costs of procuring electric supply for which it contracted
20 before the effective date of this Section in conjunction with
21 the provision of full requirements service under fixed-price
22 bundled service tariffs subsequent to December 31, 2006. All
23 such costs shall be deemed to have been prudently incurred. The
24 pass-through tariffs that are filed and approved pursuant to
25 this Section shall not be subject to review under, or in any
26 way limited by, Section 16-111(i) of this Act. All of the costs

1 incurred by the electric utility associated with the purchase
2 of zero emission credits in accordance with subsection (d-5) of
3 Section 1-75 of the Illinois Power Agency Act and, beginning
4 June 1, 2017, all of the costs incurred by the electric utility
5 associated with the purchase of renewable energy resources in
6 accordance with Sections 1-56 and 1-75 of the Illinois Power
7 Agency Act, shall be recovered through the electric utility's
8 tariffed charges applicable to all of its retail customers, as
9 specified in subsection (k) of Section 16-108 of this Act, and
10 shall not be recovered through the electric utility's tariffed
11 charges for electric power and energy supply to its eligible
12 retail customers.

13 (m) The Commission has the authority to adopt rules to
14 carry out the provisions of this Section. For the public
15 interest, safety, and welfare, the Commission also has
16 authority to adopt rules to carry out the provisions of this
17 Section on an emergency basis immediately following August 28,
18 2007 (the effective date of Public Act 95-481) ~~this amendatory~~
19 Act.

20 (n) Notwithstanding any other provision of this Act, any
21 affiliated electric utilities that submit a single procurement
22 plan covering their combined needs may procure for those
23 combined needs in conjunction with that plan, and may enter
24 jointly into power supply contracts, purchases, and other
25 procurement arrangements, and allocate capacity and energy and
26 cost responsibility therefor among themselves in proportion to

1 their requirements.

2 (o) On or before June 1 of each year, the Commission shall
3 hold an informal hearing for the purpose of receiving comments
4 on the prior year's procurement process and any recommendations
5 for change.

6 (p) An electric utility subject to this Section may propose
7 to invest, lease, own, or operate an electric generation
8 facility as part of its procurement plan, provided the utility
9 demonstrates that such facility is the least-cost option to
10 provide electric service to those ~~eligible~~ retail customers
11 included in the plan's electric supply service requirements. If
12 the facility is shown to be the least-cost option and is
13 included in a procurement plan prepared in accordance with
14 Section 1-75 of the Illinois Power Agency Act and this Section,
15 then the electric utility shall make a filing pursuant to
16 Section 8-406 of this Act, and may request of the Commission
17 any statutory relief required thereunder. If the Commission
18 grants all of the necessary approvals for the proposed
19 facility, such supply shall thereafter be considered as a
20 pre-existing contract under subsection (b) of this Section. The
21 Commission shall in any order approving a proposal under this
22 subsection specify how the utility will recover the prudently
23 incurred costs of investing in, leasing, owning, or operating
24 such generation facility through just and reasonable rates
25 charged to those ~~eligible~~ retail customers included in the
26 plan's electric supply service requirements. Cost recovery for

1 facilities included in the utility's procurement plan pursuant
2 to this subsection shall not be subject to review under or in
3 any way limited by the provisions of Section 16-111(i) of this
4 Act. Nothing in this Section is intended to prohibit a utility
5 from filing for a fuel adjustment clause as is otherwise
6 permitted under Section 9-220 of this Act.

7 (g) If the Illinois Power Agency filed with the Commission,
8 under Section 16-111.5 of this Act, its proposed procurement
9 plan for the period commencing June 1, 2017, and the Commission
10 has not yet entered its final order approving the plan on or
11 before the effective date of this amendatory Act of the 99th
12 General Assembly, then the Illinois Power Agency shall file a
13 notice of withdrawal with the Commission, after the effective
14 date of this amendatory Act of the 99th General Assembly, to
15 withdraw the proposed procurement of renewable energy
16 resources to be approved under the plan, other than the
17 procurement of renewable energy credits from distributed
18 renewable energy generation devices using funds previously
19 collected from electric utilities' retail customers that take
20 service pursuant to electric utilities' hourly pricing tariff
21 or tariffs and, for an electric utility that serves less than
22 100,000 retail customers in the State, other than the
23 procurement of renewable energy credits from distributed
24 renewable energy generation devices. Upon receipt of the
25 notice, the Commission shall enter an order that approves the
26 withdrawal of the proposed procurement of renewable energy

1 resources from the plan. The initially proposed procurement of
2 renewable energy resources shall not be approved or be the
3 subject of any further hearing, investigation, proceeding, or
4 order of any kind.

5 This amendatory Act of the 99th General Assembly preempts
6 and supersedes any order entered by the Commission that
7 approved the Illinois Power Agency's procurement plan for the
8 period commencing June 1, 2017, to the extent it is
9 inconsistent with the provisions of this amendatory Act of the
10 99th General Assembly. To the extent any previously entered
11 order approved the procurement of renewable energy resources,
12 the portion of that order approving the procurement shall be
13 void, other than the procurement of renewable energy credits
14 from distributed renewable energy generation devices using
15 funds previously collected from electric utilities' retail
16 customers that take service under electric utilities' hourly
17 pricing tariff or tariffs and, for an electric utility that
18 serves less than 100,000 retail customers in the State, other
19 than the procurement of renewable energy credits for
20 distributed renewable energy generation devices.

21 (Source: P.A. 97-325, eff. 8-12-11; 97-616, eff. 10-26-11;
22 97-813, eff. 7-13-12; revised 9-14-16.)

23 (220 ILCS 5/16-111.5B)

24 Sec. 16-111.5B. Provisions relating to energy efficiency
25 procurement.

1 (a) Procurement ~~Beginning in 2012,~~ ~~procurement~~ plans
2 prepared and filed pursuant to Section 16-111.5 of this Act
3 during the years 2012 through 2015 shall be subject to the
4 following additional requirements:

5 (1) The analysis included pursuant to paragraph (2) of
6 subsection (b) of Section 16-111.5 shall also include the
7 impact of energy efficiency building codes or appliance
8 standards, both current and projected.

9 (2) The procurement plan components described in
10 subsection (b) of Section 16-111.5 shall also include an
11 assessment of opportunities to expand the programs
12 promoting energy efficiency measures that have been
13 offered under plans approved pursuant to Section 8-103 of
14 this Act or to implement additional cost-effective energy
15 efficiency programs or measures.

16 (3) In addition to the information provided pursuant to
17 paragraph (1) of subsection (d) of Section 16-111.5 of this
18 Act, each Illinois utility procuring power pursuant to that
19 Section shall annually provide to the Illinois Power Agency
20 by July 15 of each year, or such other date as may be
21 required by the Commission or Agency, an assessment of
22 cost-effective energy efficiency programs or measures that
23 could be included in the procurement plan. The assessment
24 shall include the following:

25 (A) A comprehensive energy efficiency potential
26 study for the utility's service territory that was

1 completed within the past 3 years.

2 (B) Beginning in 2014, the most recent analysis
3 submitted pursuant to Section 8-103A of this Act and
4 approved by the Commission under subsection (f) of
5 Section 8-103 of this Act.

6 (C) Identification of new or expanded
7 cost-effective energy efficiency programs or measures
8 that are incremental to those included in energy
9 efficiency and demand-response plans approved by the
10 Commission pursuant to Section 8-103 of this Act and
11 that would be offered to all retail customers whose
12 electric service has not been declared competitive
13 under Section 16-113 of this Act and who are eligible
14 to purchase power and energy from the utility under
15 fixed-price bundled service tariffs, regardless of
16 whether such customers actually do purchase such power
17 and energy from the utility.

18 (D) Analysis showing that the new or expanded
19 cost-effective energy efficiency programs or measures
20 would lead to a reduction in the overall cost of
21 electric service.

22 (E) Analysis of how the cost of procuring
23 additional cost-effective energy efficiency measures
24 compares over the life of the measures to the
25 prevailing cost of comparable supply.

26 (F) An energy savings goal, expressed in

1 megawatt-hours, for the year in which the measures will
2 be implemented.

3 (G) For each expanded or new program, the estimated
4 amount that the program may reduce the agency's need to
5 procure supply.

6 In preparing such assessments, a utility shall conduct
7 an annual solicitation process for purposes of requesting
8 proposals from third-party vendors, the results of which
9 shall be provided to the Agency as part of the assessment,
10 including documentation of all bids received. The utility
11 shall develop requests for proposals consistent with the
12 manner in which it develops requests for proposals under
13 plans approved pursuant to Section 8-103 of this Act, which
14 considers input from the Agency and interested
15 stakeholders.

16 (4) The Illinois Power Agency shall include in the
17 procurement plan prepared pursuant to paragraph (2) of
18 subsection (d) of Section 16-111.5 of this Act energy
19 efficiency programs and measures it determines are
20 cost-effective and the associated annual energy savings
21 goal included in the annual solicitation process and
22 assessment submitted pursuant to paragraph (3) of this
23 subsection (a).

24 (5) Pursuant to paragraph (4) of subsection (d) of
25 Section 16-111.5 of this Act, the Commission shall also
26 approve the energy efficiency programs and measures

1 included in the procurement plan, including the annual
2 energy savings goal, if the Commission determines they
3 fully capture the potential for all achievable
4 cost-effective savings, to the extent practicable, and
5 otherwise satisfy the requirements of Section 8-103 of this
6 Act.

7 In the event the Commission approves the procurement of
8 additional energy efficiency, it shall reduce the amount of
9 power to be procured under the procurement plan to reflect
10 the additional energy efficiency and shall direct the
11 utility to undertake the procurement of such energy
12 efficiency, which shall not be subject to the requirements
13 of subsection (e) of Section 16-111.5 of this Act. The
14 utility shall consider input from the Agency and interested
15 stakeholders on the procurement and administration
16 process. The requirements set forth in paragraphs (1)
17 through (5) of this subsection (a) shall terminate after
18 the filing of the procurement plan in 2015, and no energy
19 efficiency shall be procured by the Agency thereafter.
20 Energy efficiency programs approved previously under this
21 Section shall terminate no later than December 31, 2017.

22 (6) An electric utility shall recover its costs
23 incurred under this Section related to the implementation
24 of energy efficiency programs and measures approved by the
25 Commission in its order approving the procurement plan
26 under Section 16-111.5 of this Act, including, but not

1 limited to, all costs associated with complying with this
2 Section and all start-up and administrative costs and the
3 costs for any evaluation, measurement, and verification of
4 the measures, from all retail customers whose electric
5 service has not been declared competitive under Section
6 16-113 of this Act and who are eligible to purchase power
7 and energy from the utility under fixed-price bundled
8 service tariffs, regardless of whether such customers
9 actually do purchase such power and energy from the utility
10 through the automatic adjustment clause tariff established
11 pursuant to Section 8-103 of this Act, provided, however,
12 that the limitations described in subsection (d) of that
13 Section shall not apply to the costs incurred pursuant to
14 this Section or Section 16-111.7 of this Act.

15 (b) For purposes of this Section, the term "energy
16 efficiency" shall have the meaning set forth in Section 1-10 of
17 the Illinois Power Agency Act, and the term "cost-effective"
18 shall have the meaning set forth in subsection (a) of Section
19 8-103 of this Act.

20 (c) The changes to this Section made by this amendatory Act
21 of the 99th General Assembly shall not interfere with existing
22 contracts executed under a Commission order entered under this
23 Section.

24 (d) (1) For those electric utilities subject to the
25 requirements of Section 8-103B of this Act, the contracts
26 governing the energy efficiency programs and measures approved

1 by the Commission in its order approving the procurement plan
2 for the period June 1, 2016 through May 31, 2017 may be
3 extended through December 31, 2017 so that the energy
4 efficiency programs subject to such contracts and approved in
5 such plan continue to be offered during the period June 1, 2017
6 through December 31, 2017. Each such utility is authorized to
7 increase, on a pro rata basis, the energy savings goals and
8 budgets approved under this Section to reflect the additional 7
9 months of implementation of the energy efficiency programs and
10 measures.

11 (2) If the Illinois Power Agency filed with the
12 Commission, under Section 16-111.5 of this Act, its
13 proposed procurement plan for the period commencing June 1,
14 2017, and the Commission has not yet entered its final
15 order approving such plan on or before the effective date
16 of this amendatory Act of the 99th General Assembly, then
17 the Illinois Power Agency shall file a notice of withdrawal
18 with the Commission to withdraw the proposed energy
19 efficiency programs to be approved under such plan. Upon
20 receipt of such notice, the Commission shall enter an order
21 that approves the withdrawal of all proposed energy
22 efficiency programs from the plan. The initially proposed
23 energy efficiency programs shall not be approved or be the
24 subject of any further hearing, investigation, proceeding,
25 or order of any kind.

26 (3) This amendatory Act of the 99th General Assembly

preempts and supersedes any order entered by the Commission that approved the Illinois Power Agency's procurement plan for the period commencing June 1, 2017, to the extent inconsistent with the provisions of this amendatory Act of the 99th General Assembly. To the extent any such previously entered order approved energy efficiency programs under this Section, the portion of such order approving such programs shall be void, and the provisions of paragraph (1) of this subsection (d) shall apply.

(Source: P.A. 97-616, eff. 10-26-11; 97-824, eff. 7-18-12.)

(220 ILCS 5/16-111.7)

Sec. 16-111.7. On-bill financing program; electric utilities.

(a) The Illinois General Assembly finds that Illinois homes and businesses have the potential to save energy through conservation and cost-effective energy efficiency measures. Programs created pursuant to this Section will allow utility customers to purchase cost-effective energy efficiency measures, including measures set forth in a Commission-approved energy efficiency and demand-response plan under Section 8-103 or 8-103B of this Act, with no required initial upfront payment, and to pay the cost of those products and services over time on their utility bill.

(b) Notwithstanding any other provision of this Act, an electric utility serving more than 100,000 customers on January

1 1, 2009 shall offer a Commission-approved on-bill financing
2 program ("program") that allows its eligible retail customers,
3 as that term is defined in Section 16-111.5 of this Act, who
4 own a residential single family home, duplex, or other
5 residential building with 4 or less units, or condominium at
6 which the electric service is being provided (i) to borrow
7 funds from a third party lender in order to purchase electric
8 energy efficiency measures approved under the program for
9 installation in such home or condominium without any required
10 upfront payment and (ii) to pay back such funds over time
11 through the electric utility's bill. Based upon the process
12 described in subsection (b-5) of this Section, small commercial
13 customers who own the premises at which electric service is
14 being provided may be included in such program. After receiving
15 a request from an electric utility for approval of a proposed
16 program and tariffs pursuant to this Section, the Commission
17 shall render its decision within 120 days. If no decision is
18 rendered within 120 days, then the request shall be deemed to
19 be approved.

20 Beginning no later than December 31, 2013, an electric
21 utility subject to this subsection (b) shall also offer its
22 program to eligible retail customers that own multifamily
23 residential or mixed-use buildings with no more than 50
24 residential units, provided, however, that such customers must
25 either be a residential customer or small commercial customer
26 and may not use the program in such a way that repayment of the

1 cost of energy efficiency measures is made through tenants'
2 utility bills. An electric utility may impose a per site loan
3 limit not to exceed \$150,000. The program, and loans issued
4 thereunder, shall only be offered to customers of the utility
5 that meet the requirements of this Section and that also have
6 an electric service account at the premises where the energy
7 efficiency measures being financed shall be installed.
8 Beginning no later than 2 years after the effective date of
9 this amendatory Act of the 99th General Assembly, the 50
10 residential unit limitation described in this paragraph shall
11 no longer apply, and the utility shall replace the per site
12 loan limit of \$150,000 with a loan limit that correlates to a
13 maximum monthly payment that does not exceed 50% of the
14 customer's average utility bill over the prior 12-month period.

15 Beginning no later than 2 years after the effective date of
16 this amendatory Act of the 99th General Assembly, an electric
17 utility subject to this subsection (b) shall also offer its
18 program to eligible retail customers that are Unit Owners'
19 Associations, as defined in subsection (o) of Section 2 of the
20 Condominium Property Act, or Master Associations, as defined in
21 subsection (u) of the Condominium Property Act. However, such
22 customers must either be residential customers or small
23 commercial customers and may not use the program in such a way
24 that repayment of the cost of energy efficiency measures is
25 made through unit owners' utility bills. The program and loans
26 issued under the program shall only be offered to customers of

1 the utility that meet the requirements of this Section and that
2 also have an electric service account at the premises where the
3 energy efficiency measures being financed shall be installed.

4 For purposes of this Section, "small commercial customer"
5 means, for an electric utility serving more than 3,000,000
6 retail customers, those customers having peak demand of less
7 than 100 kilowatts, and, for an electric utility serving less
8 than 3,000,000 retail customers, those customers having peak
9 demand of less than 150 kilowatts; provided, however, that in
10 the event the Commission, after the effective date of this
11 amendatory Act of the 98th General Assembly, approves changes
12 to a utility's tariffs that reflects new or revised demand
13 criteria for the utility's customer rate classifications, then
14 the utility may file a petition with the Commission to revise
15 the applicable definition of a small commercial customer to
16 reflect the new or revised demand criteria for the purposes of
17 this Section. After notice and hearing, the Commission shall
18 enter an order approving, or approving with modification, the
19 revised definition within 60 days after the utility files the
20 petition.

21 (b-5) Within 30 days after the effective date of this
22 amendatory Act of the 96th General Assembly, the Commission
23 shall convene a workshop process during which interested
24 participants may discuss issues related to the program,
25 including program design, eligible electric energy efficiency
26 measures, vendor qualifications, and a methodology for

1 ensuring ongoing compliance with such qualifications,
2 financing, sample documents such as request for proposals,
3 contracts and agreements, dispute resolution, pre-installment
4 and post-installment verification, and evaluation. The
5 workshop process shall be completed within 150 days after the
6 effective date of this amendatory Act of the 96th General
7 Assembly.

8 (c) Not later than 60 days following completion of the
9 workshop process described in subsection (b-5) of this Section,
10 each electric utility subject to subsection (b) of this Section
11 shall submit a proposed program to the Commission that contains
12 the following components:

13 (1) A list of recommended electric energy efficiency
14 measures that will be eligible for on-bill financing. An
15 eligible electric energy efficiency measure ("measure")
16 shall be a product or service for which one or more of the
17 following is true:

18 (A) (blank);

19 (B) the projected electricity savings (determined
20 by rates in effect at the time of purchase) are
21 sufficient to cover the costs of implementing the
22 measures, including finance charges and any program
23 fees not recovered pursuant to subsection (f) of this
24 Section; or

25 (C) the product or service is included in a
26 Commission-approved energy efficiency and

1 demand-response plan under Section 8-103 or 8-103B of
2 this Act.

3 (1.5) Beginning no later than 2 years after the
4 effective date of this amendatory Act of the 99th General
5 Assembly, an eligible electric energy efficiency measure
6 (measure) shall be a product or service that qualifies
7 under subparagraph (B) or (C) of paragraph (1) of this
8 subsection (c) or for which one or more of the following is
9 true:

10 (A) a building energy assessment, performed by an
11 energy auditor who is certified by the Building
12 Performance Institute or who holds a similar
13 certification, has recommended the product or service
14 as likely to be cost effective over the course of its
15 installed life for the building in which the measure is
16 to be installed; or

17 (B) the product or service is necessary to safely
18 or correctly install to code or industry standard an
19 efficiency measure, including, but not limited to,
20 installation work; changes needed to plumbing or
21 electrical connections; upgrades to wiring or
22 fixtures; removal of hazardous materials; correction
23 of leaks; changes to thermostats, controls, or similar
24 devices; and changes to venting or exhaust
25 necessitated by the measure. However, the costs of the
26 product or service described in this subparagraph (B)

1 shall not exceed 25% of the total cost of installing
2 the measure.

3 (2) The electric utility shall issue a request for
4 proposals ("RFP") to lenders for purposes of providing
5 financing to participants to pay for approved measures. The
6 RFP criteria shall include, but not be limited to, the
7 interest rate, origination fees, and credit terms. The
8 utility shall select the winning bidders based on its
9 evaluation of these criteria, with a preference for those
10 bids containing the rates, fees, and terms most favorable
11 to participants;

12 (3) The utility shall work with the lenders selected
13 pursuant to the RFP process, and with vendors, to establish
14 the terms and processes pursuant to which a participant can
15 purchase eligible electric energy efficiency measures
16 using the financing obtained from the lender. The vendor
17 shall explain and offer the approved financing packaging to
18 those customers identified in subsection (b) of this
19 Section and shall assist customers in applying for
20 financing. As part of the process, vendors shall also
21 provide to participants information about any other
22 incentives that may be available for the measures.

23 (4) The lender shall conduct credit checks or undertake
24 other appropriate measures to limit credit risk, and shall
25 review and approve or deny financing applications
26 submitted by customers identified in subsection (b) of this

1 Section. Following the lender's approval of financing and
2 the participant's purchase of the measure or measures, the
3 lender shall forward payment information to the electric
4 utility, and the utility shall add as a separate line item
5 on the participant's utility bill a charge showing the
6 amount due under the program each month.

7 (5) A loan issued to a participant pursuant to the
8 program shall be the sole responsibility of the
9 participant, and any dispute that may arise concerning the
10 loan's terms, conditions, or charges shall be resolved
11 between the participant and lender. Upon transfer of the
12 property title for the premises at which the participant
13 receives electric service from the utility or the
14 participant's request to terminate service at such
15 premises, the participant shall pay in full its electric
16 utility bill, including all amounts due under the program,
17 provided that this obligation may be modified as provided
18 in subsection (g) of this Section. Amounts due under the
19 program shall be deemed amounts owed for residential and,
20 as appropriate, small commercial electric service.

21 (6) The electric utility shall remit payment in full to
22 the lender each month on behalf of the participant. In the
23 event a participant defaults on payment of its electric
24 utility bill, the electric utility shall continue to remit
25 all payments due under the program to the lender, and the
26 utility shall be entitled to recover all costs related to a

1 participant's nonpayment through the automatic adjustment
2 clause tariff established pursuant to Section 16-111.8 of
3 this Act. In addition, the electric utility shall retain a
4 security interest in the measure or measures purchased
5 under the program, and the utility retains its right to
6 disconnect a participant that defaults on the payment of
7 its utility bill.

8 (7) The total outstanding amount financed under the
9 program in this subsection and subsection (c-5) of this
10 Section shall not exceed \$2.5 million for an electric
11 utility or electric utilities under a single holding
12 company, provided that the electric utility or electric
13 utilities may petition the Commission for an increase in
14 such amount. Beginning after the effective date of this
15 amendatory Act of the 99th General Assembly, the total
16 maximum outstanding amount financed under the program in
17 this subsection and subsections (c-5) and (c-10) of this
18 Section shall increase by \$5,000,000 per year until such
19 time as the total maximum outstanding amount financed
20 reaches \$20,000,000. For purposes of this Section,
21 "maximum outstanding amount financed" means the sum of all
22 principal that has been loaned and not yet repaid.

23 (c-5) Within 120 days after the effective date of this
24 amendatory Act of the 98th General Assembly, each electric
25 utility subject to the requirements of this Section shall
26 submit an informational filing to the Commission that describes

1 its plan for implementing the provisions of this amendatory Act
2 of the 98th General Assembly on or before December 31, 2013.
3 Such filing shall also describe how the electric utility shall
4 coordinate its program with any gas utility or utilities that
5 provide gas service to buildings within the electric utility's
6 service territory so that it is practical and feasible for the
7 owner of a multifamily building to make a single application to
8 access loans for both gas and electric energy efficiency
9 measures in any individual building.

10 (c-10) No later than 365 days after the effective date of
11 this amendatory Act of the 99th General Assembly, each electric
12 utility subject to the requirements of this Section shall
13 submit an informational filing to the Commission that describes
14 its plan for implementing the provisions of this amendatory Act
15 of the 99th General Assembly that were incorporated into this
16 Section. Such filing shall also include the criteria to be used
17 by the program for determining if measures to be financed are
18 eligible electric energy efficiency measures, as defined by
19 paragraph (1.5) of subsection (c) of this Section.

20 (d) A program approved by the Commission shall also include
21 the following criteria and guidelines for such program:

22 (1) guidelines for financing of measures installed
23 under a program, including, but not limited to, RFP
24 criteria and limits on both individual loan amounts and the
25 duration of the loans;

26 (2) criteria and standards for identifying and

1 approving measures;

2 (3) qualifications of vendors that will market or
3 install measures, as well as a methodology for ensuring
4 ongoing compliance with such qualifications;

5 (4) sample contracts and agreements necessary to
6 implement the measures and program; and

7 (5) the types of data and information that utilities
8 and vendors participating in the program shall collect for
9 purposes of preparing the reports required under
10 subsection (g) of this Section.

11 (e) The proposed program submitted by each electric utility
12 shall be consistent with the provisions of this Section that
13 define operational, financial and billing arrangements between
14 and among program participants, vendors, lenders, and the
15 electric utility.

16 (f) An electric utility shall recover all of the prudently
17 incurred costs of offering a program approved by the Commission
18 pursuant to this Section, including, but not limited to, all
19 start-up and administrative costs and the costs for program
20 evaluation. All prudently incurred costs under this Section
21 shall be recovered from the residential and small commercial
22 retail customer classes eligible to participate in the program
23 through the automatic adjustment clause tariff established
24 pursuant to Section 8-103 or 8-103B of this Act.

25 (g) An independent evaluation of a program shall be
26 conducted after 3 years of the program's operation. The

1 electric utility shall retain an independent evaluator who
2 shall evaluate the effects of the measures installed under the
3 program and the overall operation of the program, including,
4 but not limited to, customer eligibility criteria and whether
5 the payment obligation for permanent electric energy
6 efficiency measures that will continue to provide benefits of
7 energy savings should attach to the meter location. As part of
8 the evaluation process, the evaluator shall also solicit
9 feedback from participants and interested stakeholders. The
10 evaluator shall issue a report to the Commission on its
11 findings no later than 4 years after the date on which the
12 program commenced, and the Commission shall issue a report to
13 the Governor and General Assembly including a summary of the
14 information described in this Section as well as its
15 recommendations as to whether the program should be
16 discontinued, continued with modification or modifications or
17 continued without modification, provided that any recommended
18 modifications shall only apply prospectively and to measures
19 not yet installed or financed.

20 (h) An electric utility offering a Commission-approved
21 program pursuant to this Section shall not be required to
22 comply with any other statute, order, rule, or regulation of
23 this State that may relate to the offering of such program,
24 provided that nothing in this Section is intended to limit the
25 electric utility's obligation to comply with this Act and the
26 Commission's orders, rules, and regulations, including Part

1 280 of Title 83 of the Illinois Administrative Code.

2 (i) The source of a utility customer's electric supply
3 shall not disqualify a customer from participation in the
4 utility's on-bill financing program. Customers of alternative
5 retail electric suppliers may participate in the program under
6 the same terms and conditions applicable to the utility's
7 supply customers.

8 (Source: P.A. 97-616, eff. 10-26-11; 98-586, eff. 8-27-13.)

9 (220 ILCS 5/16-115D)

10 Sec. 16-115D. Renewable portfolio standard for alternative
11 retail electric suppliers and electric utilities operating
12 outside their service territories.

13 (a) An alternative retail electric supplier shall be
14 responsible for procuring cost-effective renewable energy
15 resources as required under item (5) of subsection (d) of
16 Section 16-115 of this Act as outlined herein:

17 (1) The definition of renewable energy resources
18 contained in Section 1-10 of the Illinois Power Agency Act
19 applies to all renewable energy resources required to be
20 procured by alternative retail electric suppliers.

21 (2) Through May 31, 2017, the ~~The~~ quantity of renewable
22 energy resources shall be measured as a percentage of the
23 actual amount of metered electricity (megawatt-hours)
24 delivered by the alternative retail electric supplier to
25 Illinois retail customers during the 12-month period June 1

1 through May 31, commencing June 1, 2009, and the comparable
2 12-month period in each year thereafter except as provided
3 in item (6) of this subsection (a).

4 (3) Through May 31, 2017, the ~~The~~ quantity of renewable
5 energy resources shall be in amounts at least equal to the
6 annual percentages set forth in item (1) of subsection (c)
7 of Section 1-75 of the Illinois Power Agency Act. At least
8 60% of the renewable energy resources procured pursuant to
9 items (1) and through (3) of subsection (b) of this Section
10 shall come from wind generation and, starting June 1, 2015,
11 at least 6% of the renewable energy resources procured
12 pursuant to items (1) and through (3) of subsection (b) of
13 this Section shall come from solar photovoltaics. If, in
14 any given year, an alternative retail electric supplier
15 does not purchase at least these levels of renewable energy
16 resources, then the alternative retail electric supplier
17 shall make alternative compliance payments, as described
18 in subsection (d) of this Section.

19 (3.5) For the delivery year commencing June 1, 2017,
20 the quantity of renewable energy resources shall be at
21 least 13.0% of the uncovered amount of metered electricity
22 (megawatt-hours) delivered by the alternative retail
23 electric supplier to Illinois retail customers during the
24 delivery year, which uncovered amount shall equal 50% of
25 such metered electricity delivered by the alternative
26 retail electric supplier. For the delivery year commencing

June 1, 2018, the quantity of renewable energy resources shall be at least 14.5% of the uncovered amount of metered electricity (megawatt-hours) delivered by the alternative retail electric supplier to Illinois retail customers during the delivery year, which uncovered amount shall equal 25% of such metered electricity delivered by the alternative retail electric supplier. At least 32% of the renewable energy resources procured by the alternative retail electric supplier for its uncovered portion under this paragraph (3.5) shall come from wind or photovoltaic generation. The renewable energy resources procured under this paragraph (3.5) shall not include any resources from a facility whose costs were being recovered through rates regulated by any state or states on or after January 1, 2017.

(4) The quantity and source of renewable energy resources shall be independently verified through the PJM Environmental Information System Generation Attribute Tracking System (PJM-GATS) or the Midwest Renewable Energy Tracking System (M-RETS), which shall document the location of generation, resource type, month, and year of generation for all qualifying renewable energy resources that an alternative retail electric supplier uses to comply with this Section. No later than June 1, 2009, the Illinois Power Agency shall provide PJM-GATS, M-RETS, and alternative retail electric suppliers with all information

1 necessary to identify resources located in Illinois,
2 within states that adjoin Illinois or within portions of
3 the PJM and MISO footprint in the United States that
4 qualify under the definition of renewable energy resources
5 in Section 1-10 of the Illinois Power Agency Act for
6 compliance with this Section 16-115D. Alternative retail
7 electric suppliers shall not be subject to the requirements
8 in item (3) of subsection (c) of Section 1-75 of the
9 Illinois Power Agency Act.

10 (5) All renewable energy credits used to comply with
11 this Section shall be permanently retired.

12 (6) The required procurement of renewable energy
13 resources by an alternative retail electric supplier shall
14 apply to all metered electricity delivered to Illinois
15 retail customers by the alternative retail electric
16 supplier pursuant to contracts executed or extended after
17 March 15, 2009.

18 (b) Compliance obligations.

19 (1) Through May 31, 2017, an ~~An~~ alternative retail
20 electric supplier shall comply with the renewable energy
21 portfolio standards by making an alternative compliance
22 payment, as described in subsection (d) of this Section, to
23 cover at least one-half of the alternative retail electric
24 supplier's compliance obligation for the period prior to
25 June 1, 2017.

26 (2) For the delivery years beginning June 1, 2017 and

1 June 1, 2018, an alternative retail electric supplier need
2 not make any alternative compliance payment to meet any
3 portion of its compliance obligation, as set forth in
4 paragraph (3.5) of subsection (a) of this Section.

5 (3) An alternative retail electric supplier shall use
6 ~~and~~ any one or combination of the following means to cover
7 the remainder of the alternative retail electric
8 supplier's compliance obligation, as set forth in
9 paragraphs (3) and (3.5) of subsection (a) of this Section,
10 not covered by an alternative compliance payment made under
11 paragraphs (1) and (2) of this subsection (b) of this
12 Section:

13 (A) ~~(1)~~ Generating electricity using renewable
14 energy resources identified pursuant to item (4) of
15 subsection (a) of this Section.

16 (B) ~~(2)~~ Purchasing electricity generated using
17 renewable energy resources identified pursuant to item
18 (4) of subsection (a) of this Section through an energy
19 contract.

20 (C) ~~(3)~~ Purchasing renewable energy credits from
21 renewable energy resources identified pursuant to item
22 (4) of subsection (a) of this Section.

23 (D) ~~(4)~~ Making an alternative compliance payment
24 as described in subsection (d) of this Section.

25 (c) Use of renewable energy credits.

26 (1) Renewable energy credits that are not used by an

1 alternative retail electric supplier to comply with a
2 renewable portfolio standard in a compliance year may be
3 banked and carried forward up to 2 12-month compliance
4 periods after the compliance period in which the credit was
5 generated for the purpose of complying with a renewable
6 portfolio standard in those 2 subsequent compliance
7 periods. For the 2009-2010 and 2010-2011 compliance
8 periods, an alternative retail electric supplier may use
9 renewable credits generated after December 31, 2008 and
10 before June 1, 2009 to comply with this Section.

11 (2) An alternative retail electric supplier is
12 responsible for demonstrating that a renewable energy
13 credit used to comply with a renewable portfolio standard
14 is derived from a renewable energy resource and that the
15 alternative retail electric supplier has not used, traded,
16 sold, or otherwise transferred the credit.

17 (3) The same renewable energy credit may be used by an
18 alternative retail electric supplier to comply with a
19 federal renewable portfolio standard and a renewable
20 portfolio standard established under this Act. An
21 alternative retail electric supplier that uses a renewable
22 energy credit to comply with a renewable portfolio standard
23 imposed by any other state may not use the same credit to
24 comply with a renewable portfolio standard established
25 under this Act.

26 (d) Alternative compliance payments.

1 (1) The Commission shall establish and post on its
2 website, within 5 business days after entering an order
3 approving a procurement plan pursuant to Section 1-75 of
4 the Illinois Power Agency Act, maximum alternative
5 compliance payment rates, expressed on a per kilowatt-hour
6 basis, that will be applicable in the first compliance
7 period following the plan approval. A separate maximum
8 alternative compliance payment rate shall be established
9 for the service territory of each electric utility that is
10 subject to subsection (c) of Section 1-75 of the Illinois
11 Power Agency Act. Each maximum alternative compliance
12 payment rate shall be equal to the maximum allowable annual
13 estimated average net increase due to the costs of the
14 utility's purchase of renewable energy resources included
15 in the amounts paid by eligible retail customers in
16 connection with electric service, as described in item (2)
17 of subsection (c) of Section 1-75 of the Illinois Power
18 Agency Act for the compliance period, and as established in
19 the approved procurement plan. Following each procurement
20 event through which renewable energy resources are
21 purchased for one or more of these utilities for the
22 compliance period, the Commission shall establish and post
23 on its website estimates of the alternative compliance
24 payment rates, expressed on a per kilowatt-hour basis, that
25 shall apply for that compliance period. Posting of the
26 estimates shall occur no later than 10 business days

1 following the procurement event, however, the Commission
2 shall not be required to establish and post such estimates
3 more often than once per calendar month. By July 1 of each
4 year, the Commission shall establish and post on its
5 website the actual alternative compliance payment rates
6 for the preceding compliance year. For compliance years
7 beginning prior to June 1, 2014, each alternative
8 compliance payment rate shall be equal to the total amount
9 of dollars that the utility contracted to spend on
10 renewable resources, excepting the additional incremental
11 cost attributable to solar resources, for the compliance
12 period divided by the forecasted load of eligible retail
13 customers, at the customers' meters, as previously
14 established in the Commission-approved procurement plan
15 for that compliance year. For compliance years commencing
16 on or after June 1, 2014, each alternative compliance
17 payment rate shall be equal to the total amount of dollars
18 that the utility contracted to spend on all renewable
19 resources for the compliance period divided by the
20 forecasted load of ~~eligible~~ retail customers for which the
21 utility is procuring renewable energy resources in a given
22 delivery year, at the customers' meters, as previously
23 established in the Commission-approved procurement plan
24 for that compliance year. The actual alternative
25 compliance payment rates may not exceed the maximum
26 alternative compliance payment rates established for the

1 compliance period. For purposes of this subsection (d), the
2 term "eligible retail customers" has the same meaning as
3 found in Section 16-111.5 of this Act.

4 (2) In any given compliance year, an alternative retail
5 electric supplier may elect to use alternative compliance
6 payments to comply with all or a part of the applicable
7 renewable portfolio standard. In the event that an
8 alternative retail electric supplier elects to make
9 alternative compliance payments to comply with all or a
10 part of the applicable renewable portfolio standard, such
11 payments shall be made by September 1, 2010 for the period
12 of June 1, 2009 to May 1, 2010 and by September 1 of each
13 year thereafter for the subsequent compliance period, in
14 the manner and form as determined by the Commission. Any
15 election by an alternative retail electric supplier to use
16 alternative compliance payments is subject to review by the
17 Commission under subsection (e) of this Section.

18 (3) An alternative retail electric supplier's
19 alternative compliance payments shall be computed
20 separately for each electric utility's service territory
21 within which the alternative retail electric supplier
22 provided retail service during the compliance period,
23 provided that the electric utility was subject to
24 subsection (c) of Section 1-75 of the Illinois Power Agency
25 Act. For each service territory, the alternative retail
26 electric supplier's alternative compliance payment shall

1 be equal to (i) the actual alternative compliance payment
2 rate established in item (1) of this subsection (d),
3 multiplied by (ii) the actual amount of metered electricity
4 delivered by the alternative retail electric supplier to
5 retail customers for which the supplier has a compliance
6 obligation within the service territory during the
7 compliance period, multiplied by (iii) the result of one
8 minus the ratios of the quantity of renewable energy
9 resources used by the alternative retail electric supplier
10 to comply with the requirements of this Section within the
11 service territory to the product of the percentage of
12 renewable energy resources required under item (3) or (3.5)
13 of subsection (a) of this Section and the actual amount of
14 metered electricity delivered by the alternative retail
15 electrical electric supplier to retail customers for which
16 the supplier has a compliance obligation within the service
17 territory during the compliance period.

18 (4) Through May 31, 2017, all ~~All~~ alternative
19 compliance payments by alternative retail electric
20 suppliers shall be deposited in the Illinois Power Agency
21 Renewable Energy Resources Fund and used to purchase
22 renewable energy credits, in accordance with Section 1-56
23 of the Illinois Power Agency Act. Beginning April 1, 2012
24 and by April 1 of each year thereafter, the Illinois Power
25 Agency shall submit an annual report to the General
26 Assembly, the Commission, and alternative retail electric

suppliers that shall include, but not be limited to:

(A) the total amount of alternative compliance payments received in aggregate from alternative retail electric suppliers by planning year for all previous planning years in which the alternative compliance payment was in effect;

(B) the amount of those payments utilized to purchased renewable energy credits itemized by the date of each procurement in which the payments were utilized; and

(C) the unused and remaining balance in the Agency Renewable Energy Resources Fund attributable to those payments.

(4.5) Beginning with the delivery year commencing June 1, 2017, all alternative compliance payments by alternative retail electric suppliers shall be remitted to the applicable electric utility. To facilitate this remittance, each electric utility shall file a tariff with the Commission no later than 30 days following the effective date of this amendatory Act of the 99th General Assembly, which the Commission shall approve, after notice and hearing, no later than 45 days after its filing. The Illinois Power Agency shall use such payments to increase the amount of renewable energy resources otherwise to be procured under subsection (c) of Section 1-75 of the Illinois Power Agency Act.

1 (5) The Commission, in consultation with the Illinois
2 Power Agency, shall establish a process or proceeding to
3 consider the impact of a federal renewable portfolio
4 standard, if enacted, on the operation of the alternative
5 compliance mechanism, which shall include, but not be
6 limited to, developing, to the extent permitted by the
7 applicable federal statute, an appropriate methodology to
8 apportion renewable energy credits retired as a result of
9 alternative compliance payments made in accordance with
10 this Section. The Commission shall commence any such
11 process or proceeding within 35 days after enactment of a
12 federal renewable portfolio standard.

13 (e) Each alternative retail electric supplier shall, by
14 September 1, 2010 and by September 1 of each year thereafter,
15 prepare and submit to the Commission a report, in a format to
16 be specified by the Commission ~~on or before December 31, 2009,~~
17 that provides information certifying compliance by the
18 alternative retail electric supplier with this Section,
19 including copies of all PJM-GATS and M-RETS reports, and
20 documentation relating to banking, retiring renewable energy
21 credits, and any other information that the Commission
22 determines necessary to ensure compliance with this Section.

23 An alternative retail electric supplier may file
24 commercially or financially sensitive information or trade
25 secrets with the Commission as provided under the rules of the
26 Commission. To be filed confidentially, the information shall

1 be accompanied by an affidavit that sets forth both the reasons
2 for the confidentiality and a public synopsis of the
3 information.

4 (f) The Commission may initiate a contested case to review
5 allegations that the alternative retail electric supplier has
6 violated this Section, including an order issued or rule
7 promulgated under this Section. In any such proceeding, the
8 alternative retail electric supplier shall have the burden of
9 proof. If the Commission finds, after notice and hearing, that
10 an alternative retail electric supplier has violated this
11 Section, then the Commission shall issue an order requiring the
12 alternative retail electric supplier to:

13 (1) immediately comply with this Section; and

14 (2) if the violation involves a failure to procure the
15 requisite quantity of renewable energy resources or pay the
16 applicable alternative compliance payment by the annual
17 deadline, the Commission shall require the alternative
18 retail electric supplier to double the applicable
19 alternative compliance payment that would otherwise be
20 required to bring the alternative retail electric supplier
21 into compliance with this Section.

22 If an alternative retail electric supplier fails to comply
23 with the renewable energy resource portfolio requirement in
24 this Section more than once in a 5-year period, then the
25 Commission shall revoke the alternative electric supplier's
26 certificate of service authority. The Commission shall not

1 accept an application for a certificate of service authority
2 from an alternative retail electric supplier that has lost
3 certification under this subsection (f), or any corporate
4 affiliate thereof, for at least one year after the date of
5 revocation.

6 (g) All of the provisions of this Section apply to electric
7 utilities operating outside their service area except under
8 item (2) of subsection (a) of this Section the quantity of
9 renewable energy resources shall be measured as a percentage of
10 the actual amount of electricity (megawatt-hours) supplied in
11 the State outside of the utility's service territory during the
12 12-month period June 1 through May 31, commencing June 1, 2009,
13 and the comparable 12-month period in each year thereafter
14 except as provided in item (6) of subsection (a) of this
15 Section.

16 If any such utility fails to procure the requisite quantity
17 of renewable energy resources by the annual deadline, then the
18 Commission shall require the utility to double the alternative
19 compliance payment that would otherwise be required to bring
20 the utility into compliance with this Section.

21 If any such utility fails to comply with the renewable
22 energy resource portfolio requirement in this Section more than
23 once in a 5-year period, then the Commission shall order the
24 utility to cease all sales outside of the utility's service
25 territory for a period of at least one year.

26 (h) The provisions of this Section and the provisions of

1 subsection (d) of Section 16-115 of this Act relating to
2 procurement of renewable energy resources shall not apply to an
3 alternative retail electric supplier that operates a combined
4 heat and power system in this State or that has a corporate
5 affiliate that operates such a combined heat and power system
6 in this State that supplies electricity primarily to or for the
7 benefit of: (i) facilities owned by the supplier, its
8 subsidiary, or other corporate affiliate; (ii) facilities
9 electrically integrated with the electrical system of
10 facilities owned by the supplier, its subsidiary, or other
11 corporate affiliate; or (iii) facilities that are adjacent to
12 the site on which the combined heat and power system is
13 located.

14 (i) The obligations of alternative retail electric
15 suppliers and electric utilities operating outside their
16 service territories to procure renewable energy resources,
17 make alternative compliance payments, and file annual reports,
18 and the obligations of the Commission to determine and post
19 alternative compliance payment rates, shall terminate after
20 May 31, 2019, provided that alternative retail electric
21 suppliers and electric utilities operating outside their
22 service territories shall be obligated to make all alternative
23 compliance payments that they were obligated to pay for periods
24 through and including May 31, 2019, but were not paid as of
25 that date. The Commission shall continue to enforce the payment
26 of unpaid alternative compliance payments in accordance with

1 subsections (f) and (g) of this Section. All alternative
2 compliance payments made after May 31, 2016 shall be remitted
3 to the applicable electric utility and used to purchase
4 renewable energy credits, in accordance with Section 1-75 of
5 the Illinois Power Agency Act.

6 This subsection (i) is intended to accommodate the
7 transition to the procurement of renewable energy resources for
8 all retail customers in the amounts specified under subsection
9 (c) of Section 1-75 of the Illinois Power Agency Act and
10 Section 16-111.5 of this Act, including but not limited to the
11 transition to a single charge applicable to all retail
12 customers to recover the costs of these resources. Each
13 alternative retail electric supplier shall certify in its
14 annual reports filed pursuant to subsection (e) of this Section
15 after May 31, 2019, that its retail customers are not paying
16 the costs of alternative compliance payments or renewable
17 energy resources that the alternative retail electric supplier
18 is not required to remit or purchase under this Section. The
19 Commission shall have the authority to initiate an emergency
20 rulemaking to adopt rules regarding such certification.

21 (Source: P.A. 96-33, eff. 7-10-09; 96-159, eff. 8-10-09;
22 96-1437, eff. 8-17-10; 97-658, eff. 1-13-12.)

23 (220 ILCS 5/16-119A)

24 Sec. 16-119A. Functional separation.

25 (a) Within 90 days after the effective date of this

1 amendatory Act of 1997, the Commission shall open a rulemaking
2 proceeding to establish standards of conduct for every electric
3 utility described in subsection (b). To create efficient
4 competition between suppliers of generating services and
5 sellers of such services at retail and wholesale, the rules
6 shall allow all customers of a public utility that distributes
7 electric power and energy to purchase electric power and energy
8 from the supplier of their choice in accordance with the
9 provisions of Section 16-104. In addition, the rules shall
10 address relations between providers of any 2 services described
11 in subsection (b) to prevent undue discrimination and promote
12 efficient competition. Provided, however, that a proposed rule
13 shall not be published prior to May 15, 1999.

14 (b) The Commission shall also have the authority to
15 investigate the need for, and adopt rules requiring, functional
16 separation between the generation services and the delivery
17 services of those electric utilities whose principal service
18 area is in Illinois as necessary to meet the objective of
19 creating efficient competition between suppliers of generating
20 services and sellers of such services at retail and wholesale.
21 After January 1, 2003, the Commission shall also have the
22 authority to investigate the need for, and adopt rules
23 requiring, functional separation between an electric utility's
24 competitive and non-competitive services.

25 (b-5) If there is a change in ownership of a majority of
26 the voting capital stock of an electric utility or the

1 ownership or control of any entity that owns or controls a
2 majority of the voting capital stock of an electric utility,
3 the electric utility shall have the right to file with the
4 Commission a new plan. The newly filed plan shall supersede any
5 plan previously approved by the Commission pursuant to this
6 Section for that electric utility, subject to Commission
7 approval. This subsection only applies to the extent that the
8 Commission rules for the functional separation of delivery
9 services and generation services provide an electric utility
10 with the ability to select from 2 or more options to comply
11 with this Section. The electric utility may file its revised
12 plan with the Commission up to one calendar year after the
13 conclusion of the sale, purchase, or any other transfer of
14 ownership described in this subsection. In all other respects,
15 an electric utility must comply with the Commission rules in
16 effect under this Section. The Commission may promulgate rules
17 to implement this subsection. This subsection shall have no
18 legal effect after January 1, 2005.

19 (c) In establishing or considering the need for rules under
20 subsections (a) and (b), the Commission shall take into account
21 the effects on the cost and reliability of service and the
22 obligation of the utility to provide bundled service under this
23 Act. The Commission shall adopt rules that are a cost effective
24 means to ensure compliance with this Section.

25 (d) Nothing in this Section shall be construed as imposing
26 any requirements or obligations that are in conflict with

1 federal law.

2 (e) Notwithstanding anything to the contrary, an electric
3 utility may market and promote the services, rates and programs
4 authorized by Sections 16-107, and 16-108.6 of this Act.

5 (Source: P.A. 92-756, eff. 8-2-02.)

6 (220 ILCS 5/16-127)

7 Sec. 16-127. Environmental disclosure.

8 (a) Effective January 1, 2013, every electric utility and
9 alternative retail electric supplier shall provide the
10 following information, to the maximum extent practicable, to
11 its customers on a quarterly basis:

12 (i) the known sources of electricity supplied,
13 broken-out by percentages, of biomass power, coal-fired
14 power, hydro power, natural gas-fired power, nuclear
15 power, oil-fired power, solar power, wind power and other
16 resources, respectively;

17 (ii) a pie chart ~~pie chart~~ that graphically depicts the
18 percentages of the sources of the electricity supplied as
19 set forth in subparagraph (i) of this subsection; ~~and~~

20 (iii) a pie chart ~~pie chart~~ that graphically depicts
21 the quantity of renewable energy resources procured
22 pursuant to Section 1-75 of the Illinois Power Agency Act
23 as a percentage of electricity supplied to serve eligible
24 retail customers as defined in Section 16-111.5(a) of this
25 Act; and.

1 (iv) after May, 31, 2017, a pie chart that graphically
2 depicts the quantity of zero emission credits from zero
3 emission facilities procured under Section 1-75 of the
4 Illinois Power Agency Act as a percentage of the actual
5 load of retail customers within its service area.

6 (b) In addition, every electric utility and alternative
7 retail electric supplier shall provide, to the maximum extent
8 practicable, to its customers on a quarterly basis, a
9 standardized chart in a format to be determined by the
10 Commission in a rule following notice and hearings which
11 provides the amounts of carbon dioxide, nitrogen oxides and
12 sulfur dioxide emissions and nuclear waste attributable to the
13 known sources of electricity supplied as set forth in
14 subparagraph (i) of subsection (a) of this Section.

15 (c) The electric utilities and alternative retail electric
16 suppliers may provide their customers with such other
17 information as they believe relevant to the information
18 required in subsections (a) and (b) of this Section. All of the
19 information required in subsections (a) and (b) of this Section
20 shall be made available by the electric utilities or
21 alternative retail electric suppliers either in an electronic
22 medium, such as on a website or by electronic mail, or through
23 the U.S. Postal Service.

24 (d) For the purposes of subsection (a) of this Section,
25 "biomass" means dedicated crops grown for energy production and
26 organic wastes.

1 (e) All of the information provided in subsections (a) and
2 (b) of this Section shall be presented to the Commission for
3 inclusion in its World Wide Web Site.

4 (Source: P.A. 97-1092, eff. 1-1-13.)

5 (220 ILCS 5/16-128A)

6 Sec. 16-128A. Certification of installers, maintainers, or
7 repairers.

8 (a) Within 18 months of the effective date of this
9 amendatory Act of the 97th General Assembly, the Commission
10 shall adopt rules, including emergency rules, establishing
11 certification requirements ensuring that entities installing
12 distributed generation facilities are in compliance with the
13 requirements of subsection (a) of Section 16-128 of this Act.

14 For purposes of this Section, the phrase "entities
15 installing distributed generation facilities" shall include,
16 but not be limited to, all entities that are exempt from the
17 definition of "alternative retail electric supplier" under
18 item (v) of Section 16-102 of this Act. For purposes of this
19 Section, the phrase "self-installer" means an individual who
20 (i) leases or purchases a cogeneration facility for his or her
21 own personal use and (ii) installs such cogeneration or
22 self-generation facility on his or her own premises without the
23 assistance of any other person.

24 (b) In addition to any authority granted to the Commission
25 under this Act, the Commission is also authorized to: (1)

1 determine which entities are subject to certification under
2 this Section; (2) impose reasonable certification fees and
3 penalties; (3) adopt disciplinary procedures; (4) investigate
4 any and all activities subject to this Section, including
5 violations thereof; (5) adopt procedures to issue or renew, or
6 to refuse to issue or renew, a certification or to revoke,
7 suspend, place on probation, reprimand, or otherwise
8 discipline a certified entity under this Act or take other
9 enforcement action against an entity subject to this Section;
10 and (6) prescribe forms to be issued for the administration and
11 enforcement of this Section.

12 (c) No electric utility shall provide a retail customer
13 with net metering service related to interconnection of that
14 customer's distributed generation facility unless the customer
15 provides the electric utility with (i) a certification that the
16 customer installing the distributed generation facility was a
17 self-installer or (ii) evidence that the distributed
18 generation facility was installed by an entity certified under
19 this Section that is also in good standing with the Commission.
20 For purposes of this subsection, a retail customer includes
21 that customer's employees, officers, and agents. An electric
22 utility shall file a tariff or tariffs with the Commission
23 setting forth the documentation, as specified by Commission
24 rule, that a retail customer must provide to an electric
25 utility. The provisions of this subsection (c) shall apply on
26 or after the effective date of the Commission's rules

1 prescribed pursuant to subsection (a) of this Section.

2 (d) Within 180 days after the effective date of this
3 amendatory Act of the 97th General Assembly, the Commission
4 shall initiate a rulemaking proceeding to establish
5 certification requirements that shall be applicable to persons
6 or entities that install, maintain, or repair electric vehicle
7 charging stations. The notification and certification
8 requirements of this Section shall only be applicable to
9 individuals or entities that perform work on or within an
10 electric vehicle charging station, including, but not limited
11 to, connection of power to an electric vehicle charging
12 station.

13 For the purposes of this Section "electric vehicle charging
14 station" means any facility or equipment that is used to charge
15 a battery or other energy storage device of an electric
16 vehicle.

17 Rules regulating the installation, maintenance, or repair
18 of electric vehicle charging stations, in which the Commission
19 may establish separate requirements based upon the
20 characteristics of electric vehicle charging stations, so long
21 as it is in accordance with the requirements of subsection (a)
22 of Section 16-128 and Section 16-128A of this Act, shall:

23 (1) establish a certification process for persons or
24 entities that install, maintain, or repair of electric
25 vehicle charging stations;

26 (2) require persons or entities that install,

1 maintain, or repair electric vehicle stations to be
2 certified to do business and to be bonded in the State;

3 (3) ensure that persons or entities that install,
4 maintain, or repair electric vehicle charging stations
5 have the requisite knowledge, skills, training,
6 experience, and competence to perform functions in a safe
7 and reliable manner as required under subsection (a) of
8 Section 16-128 of this Act;

9 (4) impose reasonable certification fees and penalties
10 on persons or entities that install, maintain, or repair of
11 electric vehicle charging stations for noncompliance of
12 the rules adopted under this subsection;

13 (5) ensure that all persons or entities that install,
14 maintain, or repair electric vehicle charging stations
15 conform to applicable building and electrical codes;

16 (6) ensure that all electric vehicle charging stations
17 meet recognized industry standards as the Commission deems
18 appropriate, such as the National Electric Code (NEC) and
19 standards developed or created by the Institute of
20 Electrical and Electronics Engineers (IEEE), the Electric
21 Power Research Institute (EPRI), the Detroit Edison
22 Institute (DTE), the Underwriters Laboratory (UL), the
23 Society of Automotive Engineers (SAE), and the National
24 Institute of Standards and Technology (NIST);

25 (7) include any additional requirements that the
26 Commission deems reasonable to ensure that persons or

1 entities that install, maintain, or repair electric
2 vehicle charging stations meet adequate training,
3 financial, and competency requirements;

4 (8) ensure that the obligations required under this
5 Section and subsection (a) of Section 16-128 of this Act
6 are met prior to the interconnection of any electric
7 vehicle charging station;

8 (9) ensure electric vehicle charging stations
9 installed by a self-installer are not used for any
10 commercial purpose;

11 (10) establish an inspection procedure for the
12 conversion of electric vehicle charging stations installed
13 by a self-installer if it is determined that the
14 self-installed electric vehicle charging station is being
15 used for commercial purposes;

16 (11) establish the requirement that all persons or
17 entities that install electric vehicle charging stations
18 shall notify the servicing electric utility in writing of
19 plans to install an electric vehicle charging station and
20 shall notify the servicing electric utility in writing when
21 installation is complete;

22 (12) ensure that all persons or entities that install,
23 maintain, or repair electric vehicle charging stations
24 obtain certificates of insurance in sufficient amounts and
25 coverages that the Commission so determines and, if
26 necessary as determined by the Commission, names the

1 affected public utility as an additional insured; and

2 (13) identify and determine the training or other
3 programs by which persons or entities may obtain the
4 requisite training, skills, or experience necessary to
5 achieve and maintain compliance with the requirements set
6 forth in this subsection and subsection (a) of Section
7 16-128 to install, maintain, or repair electric vehicle
8 charging stations.

9 Within 18 months after the effective date of this
10 amendatory Act of the 97th General Assembly, the Commission
11 shall adopt rules, and may, if it deems necessary, adopt
12 emergency rules, for the installation, maintenance, or repair
13 of electric vehicle charging stations.

14 All retail customers who own, maintain, or repair an
15 electric vehicle charging station shall provide the servicing
16 electric utility (i) a certification that the customer
17 installing the electric vehicle charging station was a
18 self-installer or (ii) evidence that the electric vehicle
19 charging station was installed by an entity certified under
20 this subsection (d) that is also in good standing with the
21 Commission. For purposes of this subsection (d), a retail
22 customer includes that retail customer's employees, officers,
23 and agents. If the electric vehicle charging station was not
24 installed by a self-installer, then the person or entity that
25 plans to install the electric vehicle charging station shall
26 provide notice to the servicing electric utility prior to

1 installation and when installation is complete and provide any
2 other information required by the Commission's rules
3 established under subsection (d) of this Section. An electric
4 utility shall file a tariff or tariffs with the Commission
5 setting forth the documentation, as specified by Commission
6 rule, that a retail customer who owns, uses, operates, or
7 maintains an electric vehicle charging station must provide to
8 an electric utility.

9 For the purposes of this subsection, an electric vehicle
10 charging station shall constitute a distribution facility or
11 equipment as that term is used in subsection (a) of Section
12 16-128 of this Act. The phrase "self-installer" means an
13 individual who (i) leases or purchases an electric vehicle
14 charging station for his or her own personal use and (ii)
15 installs an electric vehicle charging station on his or her own
16 premises without the assistance of any other person.

17 (e) Fees and penalties collected under this Section shall
18 be deposited into the Public Utility Fund and used to fund the
19 Commission's compliance with the obligations imposed by this
20 Section.

21 (f) The rules established under subsection (d) of this
22 Section shall specify the initial dates for compliance with the
23 rules.

24 (g) Within 18 months of the effective date of this
25 amendatory Act of the 99th General Assembly, the Commission
26 shall adopt rules, including emergency rules, establishing a

1 process for entities installing a new utility-scale wind
2 project or a new utility-scale solar project to certify
3 compliance with the requirements of this Section. For purposes
4 of this Section, the phrase "entities installing a new
5 utility-scale wind project or a new utility-scale solar
6 project" shall include, but is not limited to, any entity
7 installing new wind projects or new photovoltaic projects as
8 such terms are defined in subsection (c) of Section 1-75 of the
9 Illinois Power Agency Act.

10 The process shall include an option to complete the
11 certification electronically by completing forms on-line. An
12 entity installing a new utility-scale wind project or a new
13 utility-scale solar project shall be permitted to complete
14 certification after the subject work has been completed. The
15 Commission shall maintain on its website a list of entities
16 installing new utility-scale wind projects or new
17 utility-scale solar projects measures that have successfully
18 completed the certification process.

19 (h) In addition to any authority granted to the Commission
20 under this Act, the Commission is also authorized to: (1)
21 determine which entities are subject to certification under
22 subsection (g) of this Section; (2) impose reasonable
23 certification fees and penalties; (3) adopt disciplinary
24 procedures; (4) investigate any and all activities subject to
25 subsection (g) or this subsection (h) of this Section,
26 including violations thereof; (5) adopt procedures to issue or

1 renew, or to refuse to issue or renew, a certification or to
2 revoke, suspend, place on probation, reprimand, or otherwise
3 discipline a certified entity under subsection (g) of this
4 Section or take other enforcement action against an entity
5 subject to subsection (g) or this subsection (h) of this
6 Section; (6) prescribe forms to be issued for the
7 administration and enforcement of subsection (g) and this
8 subsection (h) of this Section; and (7) establish requirements
9 to ensure that entities installing a new wind project or a new
10 photovoltaic project have the requisite knowledge, skills,
11 training, experience, and competence to perform in a safe and
12 reliable manner as required by subsection (a) of Section 16-128
13 of this Act.

14 (i) The certification of persons or entities that install,
15 maintain, or repair new wind projects, new photovoltaic
16 projects, distributed generation facilities, and electric
17 vehicle charging stations as set forth in this Section is an
18 exclusive power and function of the State. A home rule unit or
19 other units of local government authority may subject persons
20 or entities that install, maintain, or repair new wind
21 projects, new photovoltaic projects, distributed generation
22 facilities, or electric vehicle charging stations as set forth
23 in this Section to any applicable local licensing, siting, and
24 permitting requirements otherwise permitted under law so long
25 as only Commission-certified persons or entities are
26 authorized to install, maintain, or repair new wind projects,

1 new photovoltaic projects, distributed generation facilities,
2 or electric vehicle charging stations. This Section is a
3 limitation under subsection (h) of Section 6 of Article VII of
4 the Illinois Constitution on the exercise by home rule units of
5 powers and functions exclusively exercised by the State.

6 (Source: P.A. 97-616, eff. 10-26-11; 97-1128, eff. 8-28-12.)

7 (220 ILCS 5/16-128B new)

8 Sec. 16-128B. Qualified energy efficiency installers.

9 (a) Within 18 months after the effective date of this
10 amendatory Act of the 99th General Assembly, the Commission
11 shall adopt rules, including emergency rules, establishing a
12 process for entities installing energy efficiency measures to
13 certify compliance with the requirements of this Section.

14 The process shall include an option to complete the
15 certification electronically by completing forms on-line. An
16 entity installing energy efficiency measures shall be
17 permitted to complete the certification after the subject work
18 has been completed.

19 The Commission shall maintain on its website a list of
20 entities installing energy efficiency measures that have
21 successfully completed the certification process.

22 (b) In addition to any authority granted to the Commission
23 under this Act, the Commission may:

24 (1) determine which entities are subject to
25 certification under this Section;

1 (2) impose reasonable certification fees and
2 penalties;

3 (3) adopt disciplinary procedures;

4 (4) investigate any and all activities subject to this
5 Section, including violations thereof;

6 (5) adopt procedures to issue or renew, or to refuse to
7 issue or renew, a certification or to revoke, suspend,
8 place on probation, reprimand, or otherwise discipline a
9 certified entity under this Act or take other enforcement
10 action against an entity subject to this Section; and

11 (6) prescribe forms to be issued for the administration
12 and enforcement of this Section.

13 (c) An electric utility may not provide a retail customer
14 with a rebate or other energy efficiency incentive for a
15 measure that exceeds a minimal amount determined by the
16 Commission unless the customer provides the electric utility
17 with (1) a certification that the person installing the energy
18 efficiency measure was a self-installer; or (2) evidence that
19 the energy efficiency measure was installed by an entity
20 certified under this Section that is also in good standing with
21 the Commission.

22 (d) The Commission shall:

23 (1) require entities installing energy efficiency
24 measures to be certified to do business and to be bonded in
25 this State;

26 (2) ensure that entities installing energy efficiency

1 measures have the requisite knowledge, skill, training,
2 experience, and competence to perform functions in a safe
3 and reliable manner as required under subsection (a) of
4 Section 16-128 of this Act;

5 (3) ensure that entities installing energy efficiency
6 measures conform to applicable building and electrical
7 codes;

8 (4) ensure that all entities installing energy
9 efficiency measures meet recognized industry standards as
10 the Commission deems appropriate;

11 (5) include any additional requirements that the
12 Commission deems reasonable to ensure that entities
13 installing energy efficiency measures meet adequate
14 training, financial, and competency requirements;

15 (6) ensure that all entities installing energy
16 efficiency measures obtain certificates of insurance in
17 sufficient amounts and coverages that the Commission so
18 determines; and

19 (7) identify and determine the training or other
20 programs by which persons or entities may obtain the
21 requisite training, skill, or experience necessary to
22 achieve and maintain compliance with the requirements of
23 this Section.

24 (e) Fees and penalties collected under this Section shall
25 be deposited into the Public Utility Fund and used to fund the
26 Commission's compliance with the obligations imposed by this

1 Section.

2 (f) The rules adopted under this Section shall specify the
3 initial dates for compliance with the rules.

4 (g) For purposes of this Section, entities installing
5 energy efficiency measures shall endeavor to support the
6 diversity goals of this State by attracting, developing,
7 retaining, and providing opportunities to employees of all
8 backgrounds and by supporting female-owned, minority-owned,
9 veteran-owned, and small businesses.

10 Section 20. The Energy Assistance Act is amended by
11 changing Sections 13 and 18 as follows:

12 (305 ILCS 20/13)

13 (Section scheduled to be repealed on December 31, 2018)

14 Sec. 13. Supplemental Low-Income Energy Assistance Fund.

15 (a) The Supplemental Low-Income Energy Assistance Fund is
16 hereby created as a special fund in the State Treasury. The
17 Supplemental Low-Income Energy Assistance Fund is authorized
18 to receive moneys from voluntary donations from individuals,
19 foundations, corporations, and other sources, moneys received
20 pursuant to Section 17, and, by statutory deposit, the moneys
21 collected pursuant to this Section. The Fund is also authorized
22 to receive voluntary donations from individuals, foundations,
23 corporations, and other sources, as well as contributions made
24 in accordance with Section 507MM of the Illinois Income Tax

1 Act. Subject to appropriation, the Department shall use moneys
2 from the Supplemental Low-Income Energy Assistance Fund for
3 payments to electric or gas public utilities, municipal
4 electric or gas utilities, and electric cooperatives on behalf
5 of their customers who are participants in the program
6 authorized by Sections 4 and 18 of this Act, for the provision
7 of weatherization services and for administration of the
8 Supplemental Low-Income Energy Assistance Fund. The yearly
9 expenditures for weatherization may not exceed 10% of the
10 amount collected during the year pursuant to this Section. The
11 yearly administrative expenses of the Supplemental Low-Income
12 Energy Assistance Fund may not exceed 10% of the amount
13 collected during that year pursuant to this Section, except
14 when unspent funds from the Supplemental Low-Income Energy
15 Assistance Fund are reallocated from a previous year; any
16 unspent balance of the 10% administrative allowance may be
17 utilized for administrative expenses in the year they are
18 reallocated.

19 (b) Notwithstanding the provisions of Section 16-111 of the
20 Public Utilities Act but subject to subsection (k) of this
21 Section, each public utility, electric cooperative, as defined
22 in Section 3.4 of the Electric Supplier Act, and municipal
23 utility, as referenced in Section 3-105 of the Public Utilities
24 Act, that is engaged in the delivery of electricity or the
25 distribution of natural gas within the State of Illinois shall,
26 effective January 1, 1998, assess each of its customer accounts

1 a monthly Energy Assistance Charge for the Supplemental
2 Low-Income Energy Assistance Fund. The delivering public
3 utility, municipal electric or gas utility, or electric or gas
4 cooperative for a self-assessing purchaser remains subject to
5 the collection of the fee imposed by this Section. The monthly
6 charge shall be as follows:

7 (1) \$0.48 per month on each account for residential
8 electric service;

9 (2) \$0.48 per month on each account for residential gas
10 service;

11 (3) \$4.80 per month on each account for non-residential
12 electric service which had less than 10 megawatts of peak
13 demand during the previous calendar year;

14 (4) \$4.80 per month on each account for non-residential
15 gas service which had distributed to it less than 4,000,000
16 therms of gas during the previous calendar year;

17 (5) \$360 per month on each account for non-residential
18 electric service which had 10 megawatts or greater of peak
19 demand during the previous calendar year; and

20 (6) \$360 per month on each account for non-residential
21 gas service which had 4,000,000 or more therms of gas
22 distributed to it during the previous calendar year.

23 The incremental change to such charges imposed by this
24 amendatory Act of the 96th General Assembly shall not (i) be
25 used for any purpose other than to directly assist customers
26 and (ii) be applicable to utilities serving less than 100,000

1 customers in Illinois on January 1, 2009.

2 In addition, electric and gas utilities have committed, and
3 shall contribute, a one-time payment of \$22 million to the
4 Fund, within 10 days after the effective date of the tariffs
5 established pursuant to Sections 16-111.8 and 19-145 of the
6 Public Utilities Act to be used for the Department's cost of
7 implementing the programs described in Section 18 of this
8 amendatory Act of the 96th General Assembly, the Arrearage
9 Reduction Program described in Section 18, and the programs
10 described in Section 8-105 of the Public Utilities Act. If a
11 utility elects not to file a rider within 90 days after the
12 effective date of this amendatory Act of the 96th General
13 Assembly, then the contribution from such utility shall be made
14 no later than February 1, 2010.

15 (c) For purposes of this Section:

16 (1) "residential electric service" means electric
17 utility service for household purposes delivered to a
18 dwelling of 2 or fewer units which is billed under a
19 residential rate, or electric utility service for
20 household purposes delivered to a dwelling unit or units
21 which is billed under a residential rate and is registered
22 by a separate meter for each dwelling unit;

23 (2) "residential gas service" means gas utility
24 service for household purposes distributed to a dwelling of
25 2 or fewer units which is billed under a residential rate,
26 or gas utility service for household purposes distributed

1 to a dwelling unit or units which is billed under a
2 residential rate and is registered by a separate meter for
3 each dwelling unit;

4 (3) "non-residential electric service" means electric
5 utility service which is not residential electric service;
6 and

7 (4) "non-residential gas service" means gas utility
8 service which is not residential gas service.

9 (d) Within 30 days after the effective date of this
10 amendatory Act of the 96th General Assembly, each public
11 utility engaged in the delivery of electricity or the
12 distribution of natural gas shall file with the Illinois
13 Commerce Commission tariffs incorporating the Energy
14 Assistance Charge in other charges stated in such tariffs,
15 which shall become effective no later than the beginning of the
16 first billing cycle following such filing.

17 (e) The Energy Assistance Charge assessed by electric and
18 gas public utilities shall be considered a charge for public
19 utility service.

20 (f) By the 20th day of the month following the month in
21 which the charges imposed by the Section were collected, each
22 public utility, municipal utility, and electric cooperative
23 shall remit to the Department of Revenue all moneys received as
24 payment of the Energy Assistance Charge on a return prescribed
25 and furnished by the Department of Revenue showing such
26 information as the Department of Revenue may reasonably

1 require; provided, however, that a utility offering an
2 Arrearage Reduction Program or Supplemental Arrearage
3 Reduction Program pursuant to Section 18 of this Act shall be
4 entitled to net those amounts necessary to fund and recover the
5 costs of such Programs ~~Program~~ as authorized by that Section
6 that is no more than the incremental change in such Energy
7 Assistance Charge authorized by Public Act 96-33 ~~this~~
8 ~~amendatory Act of the 96th General Assembly~~. If a customer
9 makes a partial payment, a public utility, municipal utility,
10 or electric cooperative may elect either: (i) to apply such
11 partial payments first to amounts owed to the utility or
12 cooperative for its services and then to payment for the Energy
13 Assistance Charge or (ii) to apply such partial payments on a
14 pro-rata basis between amounts owed to the utility or
15 cooperative for its services and to payment for the Energy
16 Assistance Charge.

17 (g) The Department of Revenue shall deposit into the
18 Supplemental Low-Income Energy Assistance Fund all moneys
19 remitted to it in accordance with subsection (f) of this
20 Section; provided, however, that the amounts remitted by each
21 utility shall be used to provide assistance to that utility's
22 customers. The utilities shall coordinate with the Department
23 to establish an equitable and practical methodology for
24 implementing this subsection (g) beginning with the 2010
25 program year.

26 (h) On or before December 31, 2002, the Department shall

1 prepare a report for the General Assembly on the expenditure of
2 funds appropriated from the Low-Income Energy Assistance Block
3 Grant Fund for the program authorized under Section 4 of this
4 Act.

5 (i) The Department of Revenue may establish such rules as
6 it deems necessary to implement this Section.

7 (j) The Department of Commerce and Economic Opportunity may
8 establish such rules as it deems necessary to implement this
9 Section.

10 (k) The charges imposed by this Section shall only apply to
11 customers of municipal electric or gas utilities and electric
12 or gas cooperatives if the municipal electric or gas utility or
13 electric or gas cooperative makes an affirmative decision to
14 impose the charge. If a municipal electric or gas utility or an
15 electric cooperative makes an affirmative decision to impose
16 the charge provided by this Section, the municipal electric or
17 gas utility or electric cooperative shall inform the Department
18 of Revenue in writing of such decision when it begins to impose
19 the charge. If a municipal electric or gas utility or electric
20 or gas cooperative does not assess this charge, the Department
21 may not use funds from the Supplemental Low-Income Energy
22 Assistance Fund to provide benefits to its customers under the
23 program authorized by Section 4 of this Act.

24 In its use of federal funds under this Act, the Department
25 may not cause a disproportionate share of those federal funds
26 to benefit customers of systems which do not assess the charge

1 provided by this Section.

2 This Section is repealed on January 1, 2025 ~~effective~~
3 ~~December 31, 2018~~ unless renewed by action of the General
4 Assembly. ~~The General Assembly shall consider the results of~~
5 ~~the evaluations described in Section 8 in its deliberations.~~

6 (Source: P.A. 98-429, eff. 8-16-13; 99-457, eff. 1-1-16.)

7 (305 ILCS 20/18)

8 Sec. 18. Financial assistance; payment plans.

9 (a) The Percentage of Income Payment Plan (PIPP or PIP
10 Plan) is hereby created as a mandatory bill payment assistance
11 program for low-income residential customers of utilities
12 serving more than 100,000 retail customers as of January 1,
13 2009. The PIP Plan will:

14 (1) bring participants' gas and electric bills into the
15 range of affordability;

16 (2) provide incentives for participants to make timely
17 payments;

18 (3) encourage participants to reduce usage and
19 participate in conservation and energy efficiency measures
20 that reduce the customer's bill and payment requirements;
21 and

22 (4) identify participants whose homes are most in need
23 of weatherization.

24 (b) For purposes of this Section:

25 (1) "LIHEAP" means the energy assistance program

1 established under the Illinois Energy Assistance Act and
2 the Low-Income Home Energy Assistance Act of 1981.

3 (2) "Plan participant" is an eligible participant who
4 is also eligible for the PIPP and who will receive either a
5 percentage of income payment credit under the PIPP criteria
6 set forth in this Act or a benefit pursuant to Section 4 of
7 this Act. Plan participants are a subset of eligible
8 participants.

9 (3) "Pre-program arrears" means the amount a plan
10 participant owes for gas or electric service at the time
11 the participant is determined to be eligible for the PIPP
12 or the program set forth in Section 4 of this Act.

13 (4) "Eligible participant" means any person who has
14 applied for, been accepted and is receiving residential
15 service from a gas or electric utility and who is also
16 eligible for LIHEAP.

17 (c) The PIP Plan shall be administered as follows:

18 (1) The Department shall coordinate with Local
19 Administrative Agencies (LAAs), to determine eligibility
20 for the Illinois Low Income Home Energy Assistance Program
21 (LIHEAP) pursuant to the Energy Assistance Act, provided
22 that eligible income shall be no more than 150% of the
23 poverty level. Applicants will be screened to determine
24 whether the applicant's projected payments for electric
25 service or natural gas service over a 12-month period
26 exceed the criteria established in this Section. To

1 maintain the financial integrity of the program, the
2 Department may limit eligibility to households with income
3 below 125% of the poverty level.

4 (2) The Department shall establish the percentage of
5 income formula to determine the amount of a monthly credit,
6 not to exceed \$150 per month per household, not to exceed
7 \$1,800 annually, that will be applied to PIP Plan
8 participants' utility bills based on the portion of the
9 bill that is the responsibility of the participant provided
10 that the percentage shall be no more than a total of 6% of
11 the relevant income for gas and electric utility bills
12 combined, but in any event no less than \$10 per month,
13 unless the household does not pay directly for heat, in
14 which case its payment shall be 2.4% of income but in any
15 event no less than \$5 per month. The Department may
16 establish a minimum credit amount based on the cost of
17 administering the program and may deny credits to otherwise
18 eligible participants if the cost of administering the
19 credit exceeds the actual amount of any monthly credit to a
20 participant. If the participant takes both gas and electric
21 service, 66.67% of the credit shall be allocated to the
22 entity that provides the participant's primary energy
23 supply for heating. Each participant shall enter into a
24 levelized payment plan for, as applicable, gas and electric
25 service and such plans shall be implemented by the utility
26 so that a participant's usage and required payments are

1 reviewed and adjusted regularly, but no more frequently
2 than quarterly. Nothing in this Section is intended to
3 prohibit a customer, who is otherwise eligible for LIHEAP,
4 from participating in the program described in Section 4 of
5 this Act. Eligible participants who receive such a benefit
6 shall be considered plan participants and shall be eligible
7 to participate in the Arrearage Reduction Program
8 described in item (5) of this subsection (c).

9 (3) The Department shall remit, through the LAAs, to
10 the utility or participating alternative supplier that
11 portion of the plan participant's bill that is not the
12 responsibility of the participant. In the event that the
13 Department fails to timely remit payment to the utility,
14 the utility shall be entitled to recover all costs related
15 to such nonpayment through the automatic adjustment clause
16 tariffs established pursuant to Section 16-111.8 and
17 Section 19-145 of the Public Utilities Act. For purposes of
18 this item (3) of this subsection (c), payment is due on the
19 date specified on the participant's bill. The Department,
20 the Department of Revenue and LAAs shall adopt processes
21 that provide for the timely payment required by this item
22 (3) of this subsection (c).

23 (4) A plan participant is responsible for all actual
24 charges for utility service in excess of the PIPP credit.
25 Pre-program arrears that are included in the Arrearage
26 Reduction Program described in item (5) of this subsection

1 (c) shall not be included in the calculation of the
2 levelized payment plan. Emergency or crisis assistance
3 payments shall not affect the amount of any PIPP credit to
4 which a participant is entitled.

5 (5) Electric and gas utilities subject to this Section
6 shall implement an Arrearage Reduction Program (ARP) for
7 plan participants as follows: for each month that a plan
8 participant timely pays his or her utility bill, the
9 utility shall apply a credit to a portion of the
10 participant's pre-program arrears, if any, equal to
11 one-twelfth of such arrearage provided that the total
12 amount of arrearage credits shall equal no more than \$1,000
13 annually for each participant for gas and no more than
14 \$1,000 annually for each participant for electricity. In
15 the third year of the PIPP, the Department, in consultation
16 with the Policy Advisory Council established pursuant to
17 Section 5 of this Act, shall determine by rule an
18 appropriate per participant total cap on such amounts, if
19 any. Those plan participants participating in the ARP shall
20 not be subject to the imposition of any additional late
21 payment fees on pre-program arrears covered by the ARP. In
22 all other respects, the utility shall bill and collect the
23 monthly bill of a plan participant pursuant to the same
24 rules, regulations, programs and policies as applicable to
25 residential customers generally. Participation in the
26 Arrearage Reduction Program shall be limited to the maximum

1 amount of funds available as set forth in subsection (f) of
2 Section 13 of this Act. In the event any donated funds
3 under Section 13 of this Act are specifically designated
4 for the purpose of funding the ARP, the Department shall
5 remit such amounts to the utilities upon verification that
6 such funds are needed to fund the ARP. Nothing in this
7 Section shall preclude a utility from continuing to
8 implement, and apply credits under, an ARP in the event
9 that the PIPP or LIHEAP is suspended due to lack of funding
10 such that the plan participant does not receive a benefit
11 under either the PIPP or LIHEAP.

12 (5.5) In addition to the ARP described in paragraph (5)
13 of this subsection (c), utilities may also implement a
14 Supplemental Arrearage Reduction Program (SARP) for
15 eligible participants who are not able to become plan
16 participants due to PIPP timing or funding constraints. If
17 a utility elects to implement a SARP, it shall be
18 administered as follows: for each month that a SARP
19 participant timely pays his or her utility bill, the
20 utility shall apply a credit to a portion of the
21 participant's pre-program arrears, if any, equal to
22 one-twelfth of such arrearage, provided that the utility
23 may limit the total amount of arrearage credits to no more
24 than \$1,000 annually for each participant for gas and no
25 more than \$1,000 annually for each participant for
26 electricity. SARP participants shall not be subject to the

1 imposition of any additional late payment fees on
2 pre-program arrears covered by the SARP. In all other
3 respects, the utility shall bill and collect the monthly
4 bill of a SARP participant under the same rules,
5 regulations, programs, and policies as applicable to
6 residential customers generally. Participation in the SARP
7 shall be limited to the maximum amount of funds available
8 as set forth in subsection (f) of Section 13 of this Act.
9 In the event any donated funds under Section 13 of this Act
10 are specifically designated for the purpose of funding the
11 SARP, the Department shall remit such amounts to the
12 utilities upon verification that such funds are needed to
13 fund the SARP.

14 (6) The Department may terminate a plan participant's
15 eligibility for the PIP Plan upon notification by the
16 utility that the participant's monthly utility payment is
17 more than 45 days past due.

18 (7) The Department, in consultation with the Policy
19 Advisory Council, may adjust the number of PIP Plan
20 participants annually, if necessary, to match the
21 availability of funds ~~from LIHEAP~~. Any plan participant who
22 qualifies for a PIPP credit under a utility's PIPP shall be
23 entitled to participate in and receive a credit under such
24 utility's ARP for so long as such utility has ARP funds
25 available, regardless of whether the customer's
26 participation under another utility's PIPP or ARP has been

1 curtailed or limited because of a lack of funds.

2 (8) The Department shall fully implement the PIPP at
3 the earliest possible date it is able to effectively
4 administer the PIPP. Within 90 days of the effective date
5 of this amendatory Act of the 96th General Assembly, the
6 Department shall, in consultation with utility companies,
7 participating alternative suppliers, LAAs and the Illinois
8 Commerce Commission (Commission), issue a detailed
9 implementation plan which shall include detailed testing
10 protocols and analysis of the capacity for implementation
11 by the LAAs and utilities. Such consultation process also
12 shall address how to implement the PIPP in the most
13 cost-effective and timely manner, and shall identify
14 opportunities for relying on the expertise of utilities,
15 LAAs and the Commission. Following the implementation of
16 the testing protocols, the Department shall issue a written
17 report on the feasibility of full or gradual
18 implementation. The PIPP shall be fully implemented by
19 September 1, 2011, but may be phased in prior to that date.

20 (9) As part of the screening process established under
21 item (1) of this subsection (c), the Department and LAAs
22 shall assess whether any energy efficiency or demand
23 response measures are available to the plan participant at
24 no cost, and if so, the participant shall enroll in any
25 such program for which he or she is eligible. The LAAs
26 shall assist the participant in the applicable enrollment

1 or application process.

2 (10) Each alternative retail electric and gas supplier
3 serving residential customers shall elect whether to
4 participate in the PIPP or ARP described in this Section.
5 Any such supplier electing to participate in the PIPP shall
6 provide to the Department such information as the
7 Department may require, including, without limitation,
8 information sufficient for the Department to determine the
9 proportionate allocation of credits between the
10 alternative supplier and the utility. If a utility in whose
11 service territory an alternative supplier serves customers
12 contributes money to the ARP fund which is not recovered
13 from ratepayers, then an alternative supplier which
14 participates in ARP in that utility's service territory
15 shall also contribute to the ARP fund in an amount that is
16 commensurate with the number of alternative supplier
17 customers who elect to participate in the program.

18 (d) The Department, in consultation with the Policy
19 Advisory Council, shall develop and implement a program to
20 educate customers about the PIP Plan and about their rights and
21 responsibilities under the percentage of income component. The
22 Department, in consultation with the Policy Advisory Council,
23 shall establish a process that LAAs shall use to contact
24 customers in jeopardy of losing eligibility due to late
25 payments. The Department shall ensure that LAAs are adequately
26 funded to perform all necessary educational tasks.

1 (e) The PIPP shall be administered in a manner which
2 ensures that credits to plan participants will not be counted
3 as income or as a resource in other means-tested assistance
4 programs for low-income households or otherwise result in the
5 loss of federal or State assistance dollars for low-income
6 households.

7 (f) In order to ensure that implementation costs are
8 minimized, the Department and utilities shall work together to
9 identify cost-effective ways to transfer information
10 electronically and to employ available protocols that will
11 minimize their respective administrative costs as follows:

12 (1) The Commission may require utilities to provide
13 such information on customer usage and billing and payment
14 information as required by the Department to implement the
15 PIP Plan and to provide written notices and communications
16 to plan participants.

17 (2) Each utility and participating alternative
18 supplier shall file annual reports with the Department and
19 the Commission that cumulatively summarize and update
20 program information as required by the Commission's rules.
21 The reports shall track implementation costs and contain
22 such information as is necessary to evaluate the success of
23 the PIPP.

24 (3) The Department and the Commission shall have the
25 authority to promulgate rules and regulations necessary to
26 execute and administer the provisions of this Section.

1 (g) Each utility shall be entitled to recover reasonable
2 administrative and operational costs incurred to comply with
3 this Section from the Supplemental Low Income Energy Assistance
4 Fund. The utility may net such costs against monies it would
5 otherwise remit to the Funds, and each utility shall include in
6 the annual report required under subsection (f) of this Section
7 an accounting for the funds collected.

8 (Source: P.A. 96-33, eff. 7-10-09.)

9 Section 85. The Public Utilities Act is amended by changing
10 Section 2-202 as follows:

11 (220 ILCS 5/2-202) (from Ch. 111 2/3, par. 2-202)

12 Sec. 2-202. Policy; Public Utility Fund; tax.

13 (a) It is declared to be the public policy of this State
14 that in order to maintain and foster the effective regulation
15 of public utilities under this Act in the interests of the
16 People of the State of Illinois and the public utilities as
17 well, the public utilities subject to regulation under this Act
18 and which enjoy the privilege of operating as public utilities
19 in this State, shall bear the expense of administering this Act
20 by means of a tax on such privilege measured by the annual
21 gross revenue of such public utilities in the manner provided
22 in this Section. For purposes of this Section, "expense of
23 administering this Act" includes any costs incident to studies,
24 whether made by the Commission or under contract entered into

1 by the Commission, concerning environmental pollution problems
2 caused or contributed to by public utilities and the means for
3 eliminating or abating those problems. Such proceeds shall be
4 deposited in the Public Utility Fund in the State treasury.

5 (b) All of the ordinary and contingent expenses of the
6 Commission incident to the administration of this Act shall be
7 paid out of the Public Utility Fund except the compensation of
8 the members of the Commission which shall be paid from the
9 General Revenue Fund. Notwithstanding other provisions of this
10 Act to the contrary, the ordinary and contingent expenses of
11 the Commission incident to the administration of the Illinois
12 Commercial Transportation Law may be paid from appropriations
13 from the Public Utility Fund through the end of fiscal year
14 1986.

15 (c) A tax is imposed upon each public utility subject to
16 the provisions of this Act equal to .08% of its gross revenue
17 for each calendar year commencing with the calendar year
18 beginning January 1, 1982, except that the Commission may, by
19 rule, establish a different rate no greater than 0.1%. For
20 purposes of this Section, "gross revenue" shall not include
21 revenue from the production, transmission, distribution, sale,
22 delivery, or furnishing of electricity. "Gross revenue" shall
23 not include amounts paid by telecommunications retailers under
24 the Telecommunications Infrastructure Maintenance Fee Act.

25 (d) Annual gross revenue returns shall be filed in
26 accordance with paragraph (1) or (2) of this subsection (d).

1 (1) Except as provided in paragraph (2) of this
2 subsection (d), on or before January 10 of each year each
3 public utility subject to the provisions of this Act shall
4 file with the Commission an estimated annual gross revenue
5 return containing an estimate of the amount of its gross
6 revenue for the calendar year commencing January 1 of said
7 year and a statement of the amount of tax due for said
8 calendar year on the basis of that estimate. Public
9 utilities may also file revised returns containing updated
10 estimates and updated amounts of tax due during the
11 calendar year. These revised returns, if filed, shall form
12 the basis for quarterly payments due during the remainder
13 of the calendar year. In addition, on or before March 31 of
14 each year, each public utility shall file an amended return
15 showing the actual amount of gross revenues shown by the
16 company's books and records as of December 31 of the
17 previous year. Forms and instructions for such estimated,
18 revised, and amended returns shall be devised and supplied
19 by the Commission.

20 (2) Beginning with returns due after January 1, 2002,
21 the requirements of paragraph (1) of this subsection (d)
22 shall not apply to any public utility in any calendar year
23 for which the total tax the public utility owes under this
24 Section is less than \$10,000. For such public utilities
25 with respect to such years, the public utility shall file
26 with the Commission, on or before March 31 of the following

1 year, an annual gross revenue return for the year and a
2 statement of the amount of tax due for that year on the
3 basis of such a return. Forms and instructions for such
4 returns and corrected returns shall be devised and supplied
5 by the Commission.

6 (e) All returns submitted to the Commission by a public
7 utility as provided in this subsection (e) or subsection (d) of
8 this Section shall contain or be verified by a written
9 declaration by an appropriate officer of the public utility
10 that the return is made under the penalties of perjury. The
11 Commission may audit each such return submitted and may, under
12 the provisions of Section 5-101 of this Act, take such measures
13 as are necessary to ascertain the correctness of the returns
14 submitted. The Commission has the power to direct the filing of
15 a corrected return by any utility which has filed an incorrect
16 return and to direct the filing of a return by any utility
17 which has failed to submit a return. A taxpayer's signing a
18 fraudulent return under this Section is perjury, as defined in
19 Section 32-2 of the Criminal Code of 2012.

20 (f) (1) For all public utilities subject to paragraph (1)
21 of subsection (d), at least one quarter of the annual amount of
22 tax due under subsection (c) shall be paid to the Commission on
23 or before the tenth day of January, April, July, and October of
24 the calendar year subject to tax. In the event that an
25 adjustment in the amount of tax due should be necessary as a
26 result of the filing of an amended or corrected return under

1 subsection (d) or subsection (e) of this Section, the amount of
2 any deficiency shall be paid by the public utility together
3 with the amended or corrected return and the amount of any
4 excess shall, after the filing of a claim for credit by the
5 public utility, be returned to the public utility in the form
6 of a credit memorandum in the amount of such excess or be
7 refunded to the public utility in accordance with the
8 provisions of subsection (k) of this Section. However, if such
9 deficiency or excess is less than \$1, then the public utility
10 need not pay the deficiency and may not claim a credit.

11 (2) Any public utility subject to paragraph (2) of
12 subsection (d) shall pay the amount of tax due under subsection
13 (c) on or before March 31 next following the end of the
14 calendar year subject to tax. In the event that an adjustment
15 in the amount of tax due should be necessary as a result of the
16 filing of a corrected return under subsection (e), the amount
17 of any deficiency shall be paid by the public utility at the
18 time the corrected return is filed. Any excess tax payment by
19 the public utility shall be returned to it after the filing of
20 a claim for credit, in the form of a credit memorandum in the
21 amount of the excess. However, if such deficiency or excess is
22 less than \$1, the public utility need not pay the deficiency
23 and may not claim a credit.

24 (g) Each installment or required payment of the tax imposed
25 by subsection (c) becomes delinquent at midnight of the date
26 that it is due. Failure to make a payment as required by this

1 Section shall result in the imposition of a late payment
2 penalty, an underestimation penalty, or both, as provided by
3 this subsection. The late payment penalty shall be the greater
4 of:

5 (1) \$25 for each month or portion of a month that the
6 installment or required payment is unpaid or

7 (2) an amount equal to the difference between what
8 should have been paid on the due date, based upon the most
9 recently filed estimated, annual, or amended return, and
10 what was actually paid, times 1%, for each month or portion
11 of a month that the installment or required payment goes
12 unpaid. This penalty may be assessed as soon as the
13 installment or required payment becomes delinquent.

14 The underestimation penalty shall apply to those public
15 utilities subject to paragraph (1) of subsection (d) and shall
16 be calculated after the filing of the amended return. It shall
17 be imposed if the amount actually paid on any of the dates
18 specified in subsection (f) is not equal to at least one-fourth
19 of the amount actually due for the year, and shall equal the
20 greater of:

21 (1) \$25 for each month or portion of a month that the
22 amount due is unpaid or

23 (2) an amount equal to the difference between what
24 should have been paid, based on the amended return, and
25 what was actually paid as of the date specified in
26 subsection (f), times a percentage equal to 1/12 of the sum

1 of 10% and the percentage most recently established by the
2 Commission for interest to be paid on customer deposits
3 under 83 Ill. Adm. Code 280.70(e)(1), for each month or
4 portion of a month that the amount due goes unpaid, except
5 that no underestimation penalty shall be assessed if the
6 amount actually paid on or before each of the dates
7 specified in subsection (f) was based on an estimate of
8 gross revenues at least equal to the actual gross revenues
9 for the previous year. The Commission may enforce the
10 collection of any delinquent installment or payment, or
11 portion thereof by legal action or in any other manner by
12 which the collection of debts due the State of Illinois may
13 be enforced under the laws of this State. The executive
14 director or his designee may excuse the payment of an
15 assessed penalty or a portion of an assessed penalty if he
16 determines that enforced collection of the penalty as
17 assessed would be unjust.

18 (h) All sums collected by the Commission under the
19 provisions of this Section shall be paid promptly after the
20 receipt of the same, accompanied by a detailed statement
21 thereof, into the Public Utility Fund in the State treasury.

22 (i) During the month of October of each odd-numbered year
23 the Commission shall:

24 (1) determine the amount of all moneys deposited in the
25 Public Utility Fund during the preceding fiscal biennium
26 plus the balance, if any, in that fund at the beginning of

1 that biennium;

2 (2) determine the sum total of the following items: (A)
3 all moneys expended or obligated against appropriations
4 made from the Public Utility Fund during the preceding
5 fiscal biennium, plus (B) the sum of the credit memoranda
6 then outstanding against the Public Utility Fund, if any;
7 and

8 (3) determine the amount, if any, by which the sum
9 determined as provided in item (1) exceeds the amount
10 determined as provided in item (2).

11 If the amount determined as provided in item (3) of this
12 subsection exceeds 50% of the previous fiscal year's
13 appropriation level, the Commission shall then compute the
14 proportionate amount, if any, which (x) the tax paid hereunder
15 by each utility during the preceding biennium, and (y) the
16 amount paid into the Public Utility Fund during the preceding
17 biennium by the Department of Revenue pursuant to Sections 2-9
18 and 2-11 of the Electricity Excise Tax Law, bears to the
19 difference between the amount determined as provided in item
20 (3) of this subsection (i) and 50% of the previous fiscal
21 year's appropriation level. The Commission shall cause the
22 proportionate amount determined with respect to payments made
23 under the Electricity Excise Tax Law to be transferred into the
24 General Revenue Fund in the State Treasury, and notify each
25 public utility that it may file during the 3 month period after
26 the date of notification a claim for credit for the

1 proportionate amount determined with respect to payments made
2 hereunder by the public utility. If the proportionate amount is
3 less than \$10, no notification will be sent by the Commission,
4 and no right to a claim exists as to that amount. Upon the
5 filing of a claim for credit within the period provided, the
6 Commission shall issue a credit memorandum in such amount to
7 such public utility. Any claim for credit filed after the
8 period provided for in this Section is void.

9 (i-5) During the month of October of each year the
10 Commission shall:

11 (1) determine the amount of all moneys expected to be
12 deposited in the Public Utility Fund during the current
13 fiscal year, plus the balance, if any, in that fund at the
14 beginning of that year;

15 (2) determine the total of all moneys expected to be
16 expended or obligated against appropriations made from the
17 Public Utility Fund during the current fiscal year; and

18 (3) determine the amount, if any, by which the amount
19 determined in paragraph (2) exceeds the amount determined
20 as provided in paragraph (1).

21 If the amount determined as provided in paragraph (3) of
22 this subsection (i-5) results in a deficit, the Commission may
23 assess electric utilities and gas utilities for the difference
24 between the amount appropriated for the ordinary and contingent
25 expenses of the Commission and the amount derived under
26 paragraph (1) of this subsection (i-5). Such proceeds shall be

1 deposited in the Public Utility Fund in the State treasury. The
2 Commission shall apportion that difference among those public
3 utilities on the basis of each utility's share of the total
4 intrastate gross revenues of the utilities subject to this
5 subsection (i-5). Payments required under this subsection
6 (i-5) shall be made in the time and manner directed by the
7 Commission. The Commission shall permit utilities to recover
8 Illinois Commerce Commission assessments effective pursuant to
9 this subsection through an automatic adjustment mechanism that
10 is incorporated into an existing tariff that recovers costs
11 associated with this Section, or through a supplemental
12 customer charge.

13 Within 6 months after the first time assessments are made
14 under this subsection (i-5), the Commission shall initiate a
15 docketed proceeding in which it shall consider, in addition to
16 assessments from electric and gas utilities subject to this
17 subsection, the raising of assessments from, or the payment of
18 fees by, water and sewer utilities, entities possessing
19 certificates of service authority as alternative retail
20 electric suppliers under Section 16-115 of this Act, entities
21 possessing certificates of service authority as alternative
22 gas suppliers under Section 19-110 of this Act, and
23 telecommunications carriers providing local exchange
24 telecommunications service or interexchange telecommunications
25 service under sections 13-204 or 13-205 of this Act. The
26 amounts so determined shall be based on the costs to the agency

1 of the exercise of its regulatory and supervisory functions
2 with regard to the different industries and service providers
3 subject to the proceeding. No less often than every 3 years
4 after the end of a proceeding under this subsection (i-5), the
5 Commission shall initiate another proceeding for that purpose.

6 The Commission may use this apportionment method until the
7 docketed proceeding in which the Commission considers the
8 raising of assessments from other entities subject to its
9 jurisdiction under this Act has concluded. No credit memoranda
10 shall be issued pursuant to subsection (i) if the amount
11 determined as provided in paragraph (3) of this subsection
12 (i-5) results in a deficit.

13 (j) Credit memoranda issued pursuant to subsection (f) and
14 credit memoranda issued after notification and filing pursuant
15 to subsection (i) may be applied for the 2 year period from the
16 date of issuance, against the payment of any amount due during
17 that period under the tax imposed by subsection (c), or,
18 subject to reasonable rule of the Commission including
19 requirement of notification, may be assigned to any other
20 public utility subject to regulation under this Act. Any
21 application of credit memoranda after the period provided for
22 in this Section is void.

23 (k) The chairman or executive director may make refund of
24 fees, taxes or other charges whenever he shall determine that
25 the person or public utility will not be liable for payment of
26 such fees, taxes or charges during the next 24 months and he

1 determines that the issuance of a credit memorandum would be
2 unjust.

3 (Source: P.A. 97-1150, eff. 1-25-13.)

4 Section 97. Severability. The provisions of this Act are
5 severable under Section 1.31 of the Statute on Statutes.