



Rep. Joyce Mason

Adopted in House Comm. on Mar 18, 2025

10400HB3399ham001

LRB104 10086 AAS 23855 a

1 AMENDMENT TO HOUSE BILL 3399

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3399 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Geothermal Homes and Businesses Act.

6 Section 5. Findings. The General Assembly finds that:

7 (1) Geothermal heating and cooling systems leverage  
8 the year-round stability of the earth's underground  
9 temperature, which creates renewable energy potential, in  
10 order to provide a zero-cost base temperature for space  
11 heating or cooling and water heating.

12 (2) The Geothermal Homes and Businesses Program would  
13 promote innovation in, and production and use of,  
14 geothermal heating and cooling systems that (i)  
15 significantly reduce ratepayer impacts and spur economic  
16 development in the State, (ii) expand job opportunities

1 for State trade-based labor and manufacturing in the  
2 United States, (iii) bolster resiliency and support State  
3 infrastructure, and (iv) mitigate local pollution and  
4 global greenhouse gas emissions.

5 (3) Incentives generated through the use of  
6 State-sited geothermal heating and cooling systems under  
7 this Act will promote innovation and investment in  
8 geothermal heating and cooling systems.

9 Section 10. Definitions. As used in this Act:

10 "Agency" means the Illinois Power Agency.

11 "Commission" means the Illinois Commerce Commission.

12 "Geothermal heating and cooling system" means a system  
13 located in this State that meets all of the following  
14 requirements:

15 (1) exchanges thermal energy from groundwater or a  
16 shallow ground source to generate thermal energy through  
17 an electric geothermal heat pump or a system of electric  
18 geothermal heat pumps interconnected with any geothermal  
19 extraction facility that is (i) a closed loop or a series  
20 of closed loop systems in which fluid is permanently  
21 confined within a pipe or tubing and does not come in  
22 contact with the outside environment or (ii) an open loop  
23 system in which ground or surface water is circulated in  
24 an environmentally safe manner directly into the facility  
25 and returned to the same aquifer or surface water source;

1 (2) meets or exceeds the current federal Energy Star  
2 product specification standards;

3 (3) replaces or displaces less efficient space or  
4 water heating systems, regardless of fuel type;

5 (4) replaces or displaces less efficient space cooling  
6 systems, when applicable;

7 (5) does not feed electricity back to the grid, as  
8 defined at the level of the geothermal heat pump; and

9 (6) became operational on or after June 1, 2017.

10 "Program" means the Geothermal Homes and Businesses  
11 Program.

12 Section 15. Program establishment. Beginning January 1,  
13 2026, the long-term renewable resources procurement plan  
14 developed by the Agency shall include a Geothermal Homes and  
15 Businesses Program for the procurement of geothermal renewable  
16 energy credits. The Program shall be designed to provide for  
17 the steady, predictable, and sustainable growth of new  
18 geothermal heating and cooling system deployment in the State.  
19 The Program shall function as a separate and distinct  
20 procurement program that does not draw from other sources that  
21 allocate and fund renewable energy credits.

22 Section 20. Categorization. Qualifying systems for the  
23 Program shall be organized into 3 categories based on  
24 structural features and use-cases: (i) Residential, (ii)

1 Commercial, and (iii) Public or Environmental Justice. These  
2 categories shall be defined at the discretion of the Agency.

3 Section 25. Geothermal heating and cooling system  
4 calculation methodology. Energy derived from a geothermal  
5 heating and cooling system shall be eligible for inclusion in  
6 meeting the requirements of the Program. Eligible geothermal  
7 renewable energy credits shall be created by calculating the  
8 difference between the energy load used by the geothermal  
9 heating and cooling system and the energy load used by a less  
10 efficient baseline system for the equivalent space heating and  
11 cooling or water heating load required by the building.  
12 Geothermal renewable energy credits shall be expressed in  
13 megawatt-hour units. To make this calculation, the Agency  
14 shall identify an appropriate formula supported by a  
15 geothermal industry trade organization. This formula shall  
16 generally reflect calculation methodologies already in use for  
17 other State renewable portfolio standards. The Agency shall  
18 determine the form and manner in which such geothermal  
19 renewable energy credits are verified, in accordance with  
20 national best practices.

21 Section 30. Program block allocation.

22 (a) As used in this Section, "period" means each Program  
23 delivery year through a specified delivery year.

24 (b) The Program shall include the following for eligible

1 projects for each delivery year:

2 (1) a block of geothermal renewable energy credit  
3 volumes;

4 (2) a price for geothermal renewable energy credits  
5 within the identified block; and

6 (3) the terms and conditions for securing a spot on a  
7 waitlist once the block is fully committed or reserved.

8 The Agency shall strive to issue blocks sized to provide  
9 for stability and market growth.

10 (c) The Agency shall propose a block for each Program  
11 delivery year through the delivery year beginning in 2035.  
12 Before the close of the period in 2035, the Agency shall  
13 propose blocks for each Program delivery year for the next  
14 period, beginning in 2036 and ending at the discretion of the  
15 Agency. The Agency shall continue to establish subsequent  
16 periods.

17 (d) The waitlist of projects in a given year shall carry  
18 over to apply to the subsequent year when another block is  
19 opened. For each category for a delivery year, the Agency  
20 shall determine the amount of geothermal renewable energy  
21 credit volumes available in each block and the purchase price  
22 for each block, if the purchase price provided and the total  
23 geothermal renewable energy credit volume in all blocks for  
24 all categories shall be sufficient to meet Program goals.

25 (e) Systems in any of the categories listed in Section 20  
26 may reserve volumes in the annual block. However, at least 33%

1 of each annual block shall be reserved by systems that meet the  
2 Agency's definition of "residential". At the Agency's  
3 discretion, certain volumes of an annual block may be reserved  
4 for the Public or Environmental Justice category at a price  
5 that makes it feasible and affordable for buildings such as  
6 public schools, military bases, military hospitals, and  
7 low-income housing to install geothermal heating and cooling  
8 systems on premises. Additional allocation of geothermal  
9 renewable energy credit volumes per block per structural  
10 category may be defined at the discretion of the Agency.

11 (f) The Agency shall establish Program eligibility  
12 requirements that ensure that systems that enter the Program  
13 are sufficiently mature to indicate a demonstrable path to  
14 completion. The Agency may periodically review its prior  
15 decisions establishing the amount of geothermal renewable  
16 energy credit volumes in each annual block and the purchase  
17 price for each block and may propose, on an expedited basis,  
18 changes to the previously set values, including, but not  
19 limited to, redistributing the amounts and the available funds  
20 as necessary and appropriate, subject to Commission approval.  
21 The Agency may define different block sizes, purchase prices,  
22 or other distinct terms and conditions for projects located in  
23 different utility service territories if the Agency deems it  
24 necessary.

25 (g) The Program shall be designed to ensure that  
26 geothermal renewable energy credits are procured from projects

1 in diverse locations and are not concentrated in a few  
2 regional areas.

3 Section 35. Program block pricing. The Program shall  
4 provide a transparent annual schedule of geothermal renewable  
5 energy credit prices and quantities to enable the geothermal  
6 heating and cooling market to scale up and for geothermal  
7 renewable energy credit prices to adjust at a predictable rate  
8 over time. Geothermal renewable energy credit prices set by  
9 the Agency for the Program shall be reflected as a set value or  
10 the product of a formula.

11 Section 40. Approved vendors requirement.

12 (a) Property owners participating in the Program shall be  
13 required to work with an approved vendor for Program  
14 registration and application, geothermal renewable energy  
15 credit generation, geothermal renewable energy credit  
16 verification, geothermal renewable energy credit delivery, as  
17 well as Program contract fulfillment and payment.

18 (b) The Agency shall establish a registration process for  
19 entities seeking to qualify for Program-administered incentive  
20 funding and establish baseline qualifications for vendor  
21 approval. The Agency shall maintain a list of approved  
22 entities on the Program's website, and may revoke a vendor's  
23 ability to receive Program-administered incentive funding  
24 status upon a determination that the vendor failed to comply

1 with contract terms, the law, or other Program requirements.

2 (c) The Agency shall establish Program requirements and  
3 minimum contract terms to ensure projects are properly  
4 installed and operate to the level of expected benefits.  
5 Program requirements may include on-site inspections and photo  
6 documentation of projects under construction. The Agency may  
7 require repairs, alterations, or additions to remedy any  
8 enforcement actions taken in response to those complaints.

9 Section 45. Contract terms; advanced capital; contract  
10 length; transfer of geothermal heating and cooling system  
11 ownership.

12 (a) The Agency shall propose a payment structure for  
13 Program contracts upon a demonstration of qualification or  
14 need and applicant firms shall have advanced capital disbursed  
15 before geothermal renewable energy credits are first  
16 generated. The amount or percentage of capital advanced for  
17 residential systems shall be at the discretion of the Agency  
18 but not be less than 40% of the total contract. The amount or  
19 percentage of capital advanced for commercial, public, or  
20 environmental justice systems shall be at the discretion of  
21 the Agency.

22 (b) The amount or percentage of advanced capital may vary  
23 by year, or inter-year, by structure category, block, and  
24 other factors as deemed applicable by the Agency and by an  
25 applicant's demonstration of need.



1 (c) Contracts featuring capital advanced prior to system  
2 operation shall feature provisions to ensure both the  
3 successful development of applicant projects and the delivery  
4 of geothermal renewable energy credits for the full term of  
5 the contract, including ongoing collateral requirements and  
6 other provisions deemed necessary by the Agency. The  
7 percentage or amount of capital advanced prior to system  
8 operation shall not increase the overall contract value,  
9 except that contracts executed under this Section may feature  
10 geothermal renewable energy credits higher than those offered  
11 to similar projects participating in other categories.

12 (d) The capital which is not advanced shall be disbursed  
13 upon delivery of geothermal renewable energy credits as per  
14 contract fulfillment over the delivery term, not to exceed,  
15 during each delivery year, the contract price multiplied by  
16 the estimated annual geothermal renewable energy credit  
17 generation amount.

18 (e) For geothermal renewable energy credits that qualify  
19 and are procured under the Program, geothermal renewable  
20 energy credits delivery contract length shall be 25 years.

21 (f) If generation of geothermal renewable energy credits  
22 during a delivery year exceeds the estimated annual generation  
23 amount, the excess geothermal renewable energy credits shall  
24 be carried forward to future delivery years and shall not  
25 expire during the delivery term. If geothermal renewable  
26 energy credit generation during a delivery year, including

1 carried forward excess geothermal renewable energy credits, if  
2 any, is less than the estimated annual generation amount,  
3 payments during such delivery year shall not exceed the  
4 quantity generated plus the quantity carried forward  
5 multiplied by the contract price. The electric utility shall  
6 receive all geothermal renewable energy credits generated by  
7 the project during the first 25 years of operation and retire  
8 all geothermal renewable energy credits paid for under this  
9 item and return at the end of the delivery term all geothermal  
10 renewable energy credits that were not paid for.

11 (g) Geothermal renewable energy credits generated by the  
12 project thereafter shall not be transferred under the  
13 geothermal renewable energy credit delivery contract with the  
14 counterparty electric utility. Subscription of 90% of total  
15 geothermal renewable energy credit volumes or greater shall be  
16 deemed to be fully subscribed.

17 (h) Each project shall be subject to the Prevailing Wage  
18 Act. The Agency shall require verification that, for all  
19 construction for a project that was performed by a renewable  
20 energy credit delivery contract holder, its contractors, or  
21 its subcontractors, the construction employees received an  
22 amount for the work equal to or greater than the general  
23 prevailing rate as provided for in Section 3 of the Prevailing  
24 Wage Act.

25 (i) Geothermal renewable energy credits for any single  
26 geothermal heating and cooling project that is 285 tons or

1 larger and is procured after the effective date of this Act  
2 shall only be generated by a project built by general  
3 contractors who entered into a project labor agreement, as  
4 defined by the Illinois Power Agency Act, prior to  
5 construction. The project labor agreement shall be filed with  
6 the Director in accordance with procedures established by the  
7 Agency through its long-term renewable resources procurement  
8 plan. Any information submitted to the Agency pursuant to this  
9 subsection shall be considered commercially sensitive  
10 information. The project labor agreement shall provide the  
11 names, addresses, and occupations of the owner of the plant  
12 and the individuals representing the labor organization  
13 employees that participate in the project labor agreement. The  
14 project labor agreement shall also specify terms and  
15 conditions as provided in this Act.

16 Section 50. Contract terms; collateral and counterparties.

17 (a) Each contract shall include provisions to ensure the  
18 delivery of the estimated quantity of geothermal renewable  
19 energy credits, including the requirement of a bid security  
20 deposit in an amount deemed appropriate by the Agency.

21 (b) An obligated utility shall be the counterparty to the  
22 contracts executed under this Act that are approved by the  
23 Commission. No contract shall be executed for an amount that  
24 is less than one geothermal renewable energy credit per year.

25 (c) Nothing in this Act shall require the utility to

1 advance any payment or pay any amounts that exceed the actual  
2 amount of revenues anticipated to be collected by the utility  
3 inclusive of eligible funds collected in prior years and  
4 alternative compliance payments for use by the utility.

5 (d) Contracts may be assignable, but only to entities  
6 first deemed by the Agency to have met Program terms and  
7 requirements applicable to direct Program participation. In  
8 developing contracts for the delivery of geothermal renewable  
9 energy credits, the Agency may establish fees applicable to  
10 each contract assignment.

11 Section 55. Utility cost recovery. The electric utility  
12 shall be entitled to recover all of its costs associated with  
13 the procurement of geothermal renewable energy credits under  
14 the Program. These costs shall include associated reasonable  
15 expenses for implementing the procurement Programs, including,  
16 but not limited to, the costs of administering and evaluating  
17 the Program through an automatic adjustment clause tariff.

18 Section 60. Extenuating circumstances. If, at any time,  
19 approved applications for the Program exceed funds collected  
20 by the electric utility or would cause the Agency to exceed the  
21 limitation on the amount of renewable energy resources that  
22 may be procured, then the Agency may consider future  
23 uncommitted funds to be reserved for these contracts on a  
24 first-come, first-served basis.

1       Notwithstanding other requirements of this Act, no  
2       modification shall be required to Program contracts if they  
3       were already executed prior to the establishment, approval,  
4       and implementation of new contract forms as a result of this  
5       Act.

6       Section 65. Illinois Power Agency administration.

7       (a) The Agency shall strive to minimize administrative  
8       expenses in the implementation of the Program. The Agency  
9       shall be authorized to retain one or more experts or expert  
10      consulting firms to develop, administer, implement, operate,  
11      and evaluate the Program and the Agency shall retain the  
12      consultant or consultants in the same manner, to the extent  
13      practicable, as the Agency retains others to administer  
14      provisions of this Act, including, but not limited to, the  
15      procurement administrator.

16      (b) If the Agency becomes aware of a circumstance that  
17      would warrant consideration of a mid-year renewable energy  
18      credit price adjustment, it shall conduct modeling of  
19      renewable energy credit pricing dynamics, in order to provide  
20      notice to stakeholders, and conduct a stakeholder feedback  
21      process before finalizing any changes. In line with the  
22      Illinois Power Agency Act, Program modifications to any block  
23      price that does not deviate from the Commission's approved  
24      value by more than 10% shall take effect immediately and are  
25      not subject to Commission review and approval. Program

1 modifications to any block price that deviate more than 10%  
2 from the Commission's approved value shall be approved by the  
3 Commission as a long-term plan amendment under Section  
4 16-111.5 of the Public Utilities Act.

5 (c) In addition to covering the costs of Program  
6 administration, the Agency, in conjunction with its Program  
7 Administrator, may also use the proceeds of such fees charged  
8 to participating firms to support public education, labor  
9 training, and ongoing regional and national coordination with  
10 nonprofit organizations, public bodies, and others engaged in  
11 the implementation of geothermal heating and cooling system  
12 incentive Programs or similar initiatives. This work may  
13 include developing papers and reports, hosting regional and  
14 national conferences, and other work deemed necessary by the  
15 Agency to position the State as a national leader in renewable  
16 energy incentive Program development and administration.

17 (d) The Agency and its consultant or consultants shall  
18 monitor block activity, share Program activity with  
19 stakeholders and conduct quarterly meetings to discuss Program  
20 activity and market conditions. If necessary, the Agency may  
21 make prospective administrative adjustments to Program design,  
22 such as making adjustments to purchase prices as necessary to  
23 achieve the goals of this Act. Program modifications to any  
24 block price that do not deviate from the Commission's approved  
25 value by more than 10% shall take effect immediately and are  
26 not subject to Commission review and approval. Program

1 modifications to any block price that deviate more than 10%  
2 from the Commission's approved value shall be approved by the  
3 Commission as a long-term plan amendment. The Agency shall  
4 consider stakeholder feedback when making adjustments to  
5 Program design and shall notify stakeholders in advance of any  
6 planned changes.

7 (e) The Agency shall schedule regular meetings with  
8 representatives of the Attorney General, the Commission,  
9 consumer protection groups, and other interested stakeholders  
10 to share relevant information about consumer protection,  
11 project compliance, and complaints received.

12 (f) To the extent that complaints received implicate the  
13 jurisdiction of the Attorney General, the Commission, or  
14 local, State, or federal law enforcement, the Agency shall  
15 also refer complaints to those entities as appropriate.

16 Section 70. Prohibition of double claiming geothermal  
17 renewable energy credits. Geothermal renewable energy credits  
18 retired by obligated utilities for compliance with the Program  
19 are only valid for compliance if those geothermal renewable  
20 energy credits have not been previously retired by another  
21 entity that is not the obligated utility on any tracking  
22 system, carbon registry, or other accounting mechanism at any  
23 time. Additionally, geothermal renewable energy credits  
24 retired by obligated utilities for compliance with the Program  
25 are only valid for compliance if those geothermal renewable

1 energy credits have not been used to substantiate a public  
2 emissions or energy usage claim by any other another entity  
3 that is not the obligated utility, of any type and at any time,  
4 whether or not such geothermal renewable energy credits were  
5 actually retired on a tracking system, registry, or other  
6 accounting mechanism at the time of the public emissions-based  
7 claim. To that end, geothermal renewable energy credits  
8 generated for compliance with the Program are valid only if  
9 retired once, and claimed once, by the obligated utility.

10 Section 900. The Illinois Power Agency Act is amended by  
11 changing Section 1-10 as follows:

12 (20 ILCS 3855/1-10)

13 Sec. 1-10. Definitions.

14 "Agency" means the Illinois Power Agency.

15 "Agency loan agreement" means any agreement pursuant to  
16 which the Illinois Finance Authority agrees to loan the  
17 proceeds of revenue bonds issued with respect to a project to  
18 the Agency upon terms providing for loan repayment  
19 installments at least sufficient to pay when due all principal  
20 of, interest and premium, if any, on those revenue bonds, and  
21 providing for maintenance, insurance, and other matters in  
22 respect of the project.

23 "Authority" means the Illinois Finance Authority.

24 "Brownfield site photovoltaic project" means photovoltaics



1 that are either:

2 (1) interconnected to an electric utility as defined  
3 in this Section, a municipal utility as defined in this  
4 Section, a public utility as defined in Section 3-105 of  
5 the Public Utilities Act, or an electric cooperative as  
6 defined in Section 3-119 of the Public Utilities Act and  
7 located at a site that is regulated by any of the following  
8 entities under the following programs:

9 (A) the United States Environmental Protection  
10 Agency under the federal Comprehensive Environmental  
11 Response, Compensation, and Liability Act of 1980, as  
12 amended;

13 (B) the United States Environmental Protection  
14 Agency under the Corrective Action Program of the  
15 federal Resource Conservation and Recovery Act, as  
16 amended;

17 (C) the Illinois Environmental Protection Agency  
18 under the Illinois Site Remediation Program; or

19 (D) the Illinois Environmental Protection Agency  
20 under the Illinois Solid Waste Program; or

21 (2) located at the site of a coal mine that has  
22 permanently ceased coal production, permanently halted any  
23 re-mining operations, and is no longer accepting any coal  
24 combustion residues; has both completed all clean-up and  
25 remediation obligations under the federal Surface Mining  
26 and Reclamation Act of 1977 and all applicable Illinois

1 rules and any other clean-up, remediation, or ongoing  
2 monitoring to safeguard the health and well-being of the  
3 people of the State of Illinois, as well as demonstrated  
4 compliance with all applicable federal and State  
5 environmental rules and regulations, including, but not  
6 limited, to 35 Ill. Adm. Code Part 845 and any rules for  
7 historic fill of coal combustion residuals, including any  
8 rules finalized in Subdocket A of Illinois Pollution  
9 Control Board docket R2020-019.

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

1 and in the same location as the clean coal facility at the time  
2 the clean coal facility obtains an approved air permit. All  
3 coal used by a clean coal facility shall have high volatile  
4 bituminous rank and greater than 1.7 pounds of sulfur per  
5 million Btu content, unless the clean coal facility does not  
6 use gasification technology and was operating as a  
7 conventional coal-fired electric generating facility on June  
8 1, 2009 (the effective date of Public Act 95-1027).

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

25 "Clean coal SNG facility" means a facility that uses a  
26 gasification process to produce substitute natural gas, that

1     sequesters at least 90% of the total carbon dioxide emissions  
2     that the facility would otherwise emit, that uses at least 90%  
3     coal as a feedstock, with all such coal having a high  
4     bituminous rank and greater than 1.7 pounds of sulfur per  
5     million Btu content, and that has a valid and effective permit  
6     to construct emission sources and air pollution control  
7     equipment and approval with respect to the federal regulations  
8     for Prevention of Significant Deterioration of Air Quality  
9     (PSD) for the plant pursuant to the federal Clean Air Act;  
10    provided, however, a clean coal SNG brownfield facility shall  
11    not be a clean coal SNG facility.

12        "Clean energy" means energy generation that is 90% or  
13    greater free of carbon dioxide emissions.

14        "Commission" means the Illinois Commerce Commission.

15        "Community renewable generation project" means an electric  
16    generating facility that:

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

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

1 Section 3-119 of the Public Utilities Act;

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

4 (4) is limited in nameplate capacity to less than or  
5 equal to 5,000 kilowatts.

6 "Costs incurred in connection with the development and  
7 construction of a facility" means:

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

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

15 (3) all origination, commitment, utilization,  
16 facility, placement, underwriting, syndication, credit  
17 enhancement, and rating agency fees;

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

24 (5) the costs of plans, specifications, site study and  
25 investigation, installation, surveys, other Agency costs  
26 and estimates of costs, and other expenses necessary or

1 incidental to determining the feasibility of any project,  
2 together with such other expenses as may be necessary or  
3 incidental to the financing, insuring, acquisition, and  
4 construction of a specific project and starting up,  
5 commissioning, and placing that project in operation.

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

8 "Delivery year" means the consecutive 12-month period  
9 beginning June 1 of a given year and ending May 31 of the  
10 following year.

11 "Department" means the Department of Commerce and Economic  
12 Opportunity.

13 "Director" means the Director of the Illinois Power  
14 Agency.

15 "Demand-response" means measures that decrease peak  
16 electricity demand or shift demand from peak to off-peak  
17 periods.

18 "Distributed renewable energy generation device" means a  
19 device that is:

20 (1) powered by wind, solar thermal energy,  
21 photovoltaic cells or panels, biodiesel, crops and  
22 untreated and unadulterated organic waste biomass, tree  
23 waste, and hydropower that does not involve new  
24 construction of dams, waste heat to power systems, or  
25 qualified combined heat and power systems;

26 (2) interconnected at the distribution system level of

1        either an electric utility as defined in this Section, a  
2        municipal utility as defined in this Section that owns or  
3        operates electric distribution facilities, or a rural  
4        electric cooperative as defined in Section 3-119 of the  
5        Public Utilities Act;

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

9            (4) (blank).

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

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

21        "Equity investment eligible community" or "eligible  
22        community" are synonymous and mean the geographic areas  
23        throughout Illinois which would most benefit from equitable  
24        investments by the State designed to combat discrimination.  
25        Specifically, the eligible communities shall be defined as the  
26        following areas:

1           (1) R3 Areas as established pursuant to Section 10-40  
2           of the Cannabis Regulation and Tax Act, where residents  
3           have historically been excluded from economic  
4           opportunities, including opportunities in the energy  
5           sector; and

6           (2) environmental justice communities, as defined by  
7           the Illinois Power Agency pursuant to the Illinois Power  
8           Agency Act, where residents have historically been subject  
9           to disproportionate burdens of pollution, including  
10          pollution from the energy sector.

11          "Equity eligible persons" or "eligible persons" means  
12          persons who would most benefit from equitable investments by  
13          the State designed to combat discrimination, specifically:

14               (1) persons who graduate from or are current or former  
15               participants in the Clean Jobs Workforce Network Program,  
16               the Clean Energy Contractor Incubator Program, the  
17               Illinois Climate Works Preapprenticeship Program,  
18               Returning Residents Clean Jobs Training Program, or the  
19               Clean Energy Primes Contractor Accelerator Program, and  
20               the solar training pipeline and multi-cultural jobs  
21               program created in paragraphs (a) (1) and (a) (3) of Section  
22               16-208.12 of the Public Utilities Act;

23               (2) persons who are graduates of or currently enrolled  
24               in the foster care system;

25               (3) persons who were formerly incarcerated;

26               (4) persons whose primary residence is in an equity



1 investment eligible community.

2 "Equity eligible contractor" means a business that is  
3 majority-owned by eligible persons, or a nonprofit or  
4 cooperative that is majority-governed by eligible persons, or  
5 is a natural person that is an eligible person offering  
6 personal services as an independent contractor.

7 "Facility" means an electric generating unit or a  
8 co-generating unit that produces electricity along with  
9 related equipment necessary to connect the facility to an  
10 electric transmission or distribution system.

11 "General contractor" means the entity or organization with  
12 main responsibility for the building of a construction project  
13 and who is the party signing the prime construction contract  
14 for the project.

15 "Governmental aggregator" means one or more units of local  
16 government that individually or collectively procure  
17 electricity to serve residential retail electrical loads  
18 located within its or their jurisdiction.

19 "High voltage direct current converter station" means the  
20 collection of equipment that converts direct current energy  
21 from a high voltage direct current transmission line into  
22 alternating current using Voltage Source Conversion technology  
23 and that is interconnected with transmission or distribution  
24 assets located in Illinois.

25 "High voltage direct current renewable energy credit"  
26 means a renewable energy credit associated with a renewable

1 energy resource where the renewable energy resource has  
2 entered into a contract to transmit the energy associated with  
3 such renewable energy credit over high voltage direct current  
4 transmission facilities.

5 "High voltage direct current transmission facilities"  
6 means the collection of installed equipment that converts  
7 alternating current energy in one location to direct current  
8 and transmits that direct current energy to a high voltage  
9 direct current converter station using Voltage Source  
10 Conversion technology. "High voltage direct current  
11 transmission facilities" includes the high voltage direct  
12 current converter station itself and associated high voltage  
13 direct current transmission lines. Notwithstanding the  
14 preceding, after September 15, 2021 (the effective date of  
15 Public Act 102-662), an otherwise qualifying collection of  
16 equipment does not qualify as high voltage direct current  
17 transmission facilities unless its developer entered into a  
18 project labor agreement, is capable of transmitting  
19 electricity at 525kv with an Illinois converter station  
20 located and interconnected in the region of the PJM  
21 Interconnection, LLC, and the system does not operate as a  
22 public utility, as that term is defined in Section 3-105 of the  
23 Public Utilities Act.

24 "Hydropower" means any method of electricity generation or  
25 storage that results from the flow of water, including  
26 impoundment facilities, diversion facilities, and pumped

1 storage facilities.

2 "Index price" means the real-time energy settlement price  
3 at the applicable Illinois trading hub, such as PJM-NIHUB or  
4 MISO-IL, for a given settlement period.

5 "Indexed renewable energy credit" means a tradable credit  
6 that represents the environmental attributes of one megawatt  
7 hour of energy produced from a renewable energy resource, the  
8 price of which shall be calculated by subtracting the strike  
9 price offered by a new utility-scale wind project or a new  
10 utility-scale photovoltaic project from the index price in a  
11 given settlement period.

12 "Indexed renewable energy credit counterparty" has the  
13 same meaning as "public utility" as defined in Section 3-105  
14 of the Public Utilities Act.

15 "Local government" means a unit of local government as  
16 defined in Section 1 of Article VII of the Illinois  
17 Constitution.

18 "Modernized" or "retooled" means the construction, repair,  
19 maintenance, or significant expansion of turbines and existing  
20 hydropower dams.

21 "Municipality" means a city, village, or incorporated  
22 town.

23 "Municipal utility" means a public utility owned and  
24 operated by any subdivision or municipal corporation of this  
25 State.

26 "Nameplate capacity" means the aggregate inverter

1 nameplate capacity in kilowatts AC.

2 "Person" means any natural person, firm, partnership,  
3 corporation, either domestic or foreign, company, association,  
4 limited liability company, joint stock company, or association  
5 and includes any trustee, receiver, assignee, or personal  
6 representative thereof.

7 "Project" means the planning, bidding, and construction of  
8 a facility.

9 "Project labor agreement" means a pre-hire collective  
10 bargaining agreement that covers all terms and conditions of  
11 employment on a specific construction project and must include  
12 the following:

13 (1) provisions establishing the minimum hourly wage  
14 for each class of labor organization employee;

15 (2) provisions establishing the benefits and other  
16 compensation for each class of labor organization  
17 employee;

18 (3) provisions establishing that no strike or disputes  
19 will be engaged in by the labor organization employees;

20 (4) provisions establishing that no lockout or  
21 disputes will be engaged in by the general contractor  
22 building the project; and

23 (5) provisions for minorities and women, as defined  
24 under the Business Enterprise for Minorities, Women, and  
25 Persons with Disabilities Act, setting forth goals for  
26 apprenticeship hours to be performed by minorities and

1 women and setting forth goals for total hours to be  
2 performed by underrepresented minorities and women.

3 A labor organization and the general contractor building  
4 the project shall have the authority to include other terms  
5 and conditions as they deem necessary.

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

8 "Qualified combined heat and power systems" means systems  
9 that, either simultaneously or sequentially, produce  
10 electricity and useful thermal energy from a single fuel  
11 source. Such systems are eligible for "renewable energy  
12 credits" in an amount equal to its total energy output where a  
13 renewable fuel is consumed or in an amount equal to the net  
14 reduction in nonrenewable fuel consumed on a total energy  
15 output basis.

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

22 "Renewable energy credit" means a tradable credit that  
23 represents the environmental attributes of one megawatt hour  
24 of energy produced from a renewable energy resource.

25 "Renewable energy resources" includes energy and its  
26 associated renewable energy credit or renewable energy credits

1 from wind, solar thermal energy, photovoltaic cells and  
2 panels, biodiesel, anaerobic digestion, crops and untreated  
3 and unadulterated organic waste biomass, and hydropower that  
4 does not involve new construction of dams, waste heat to power  
5 systems, ~~or~~ qualified combined heat and power systems, or  
6 geothermal heating and cooling systems as defined in the  
7 Geothermal Homes and Businesses Act. For purposes of this Act,  
8 landfill gas produced in the State is considered a renewable  
9 energy resource. "Renewable energy resources" does not include  
10 the incineration or burning of tires, garbage, general  
11 household, institutional, and commercial waste, industrial  
12 lunchroom or office waste, landscape waste, railroad  
13 crossties, utility poles, or construction or demolition  
14 debris, other than untreated and unadulterated waste wood.  
15 "Renewable energy resources" also includes high voltage direct  
16 current renewable energy credits and the associated energy  
17 converted to alternating current by a high voltage direct  
18 current converter station to the extent that: (1) the  
19 generator of such renewable energy resource contracted with a  
20 third party to transmit the energy over the high voltage  
21 direct current transmission facilities, and (2) the  
22 third-party contracting for delivery of renewable energy  
23 resources over the high voltage direct current transmission  
24 facilities have ownership rights over the unretired associated  
25 high voltage direct current renewable energy credit.

26 "Retail customer" has the same definition as found in

1 Section 16-102 of the Public Utilities Act.

2 "Revenue bond" means any bond, note, or other evidence of  
3 indebtedness issued by the Authority, the principal and  
4 interest of which is payable solely from revenues or income  
5 derived from any project or activity of the Agency.

6 "Sequester" means permanent storage of carbon dioxide by  
7 injecting it into a saline aquifer, a depleted gas reservoir,  
8 or an oil reservoir, directly or through an enhanced oil  
9 recovery process that may involve intermediate storage,  
10 regardless of whether these activities are conducted by a  
11 clean coal facility, a clean coal SNG facility, a clean coal  
12 SNG brownfield facility, or a party with which a clean coal  
13 facility, clean coal SNG facility, or clean coal SNG  
14 brownfield facility has contracted for such purposes.

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

17 "Settlement period" means the period of time utilized by  
18 MISO and PJM and their successor organizations as the basis  
19 for settlement calculations in the real-time energy market.

20 "Sourcing agreement" means (i) in the case of an electric  
21 utility, an agreement between the owner of a clean coal  
22 facility and such electric utility, which agreement shall have  
23 terms and conditions meeting the requirements of paragraph (3)  
24 of subsection (d) of Section 1-75, (ii) in the case of an  
25 alternative retail electric supplier, an agreement between the  
26 owner of a clean coal facility and such alternative retail

1 electric supplier, which agreement shall have terms and  
2 conditions meeting the requirements of Section 16-115(d) (5) of  
3 the Public Utilities Act, and (iii) in case of a gas utility,  
4 an agreement between the owner of a clean coal SNG brownfield  
5 facility and the gas utility, which agreement shall have the  
6 terms and conditions meeting the requirements of subsection  
7 (h-1) of Section 9-220 of the Public Utilities Act.

8 "Strike price" means a contract price for energy and  
9 renewable energy credits from a new utility-scale wind project  
10 or a new utility-scale photovoltaic project.

11 "Subscriber" means a person who (i) takes delivery service  
12 from an electric utility, and (ii) has a subscription of no  
13 less than 200 watts to a community renewable generation  
14 project that is located in the electric utility's service  
15 area. No subscriber's subscriptions may total more than 40% of  
16 the nameplate capacity of an individual community renewable  
17 generation project. Entities that are affiliated by virtue of  
18 a common parent shall not represent multiple subscriptions  
19 that total more than 40% of the nameplate capacity of an  
20 individual community renewable generation project.

21 "Subscription" means an interest in a community renewable  
22 generation project expressed in kilowatts, which is sized  
23 primarily to offset part or all of the subscriber's  
24 electricity usage.

25 "Substitute natural gas" or "SNG" means a gas manufactured  
26 by gasification of hydrocarbon feedstock, which is



1 substantially interchangeable in use and distribution with  
2 conventional natural gas.

3 "Total resource cost test" or "TRC test" means a standard  
4 that is met if, for an investment in energy efficiency or  
5 demand-response measures, the benefit-cost ratio is greater  
6 than one. The benefit-cost ratio is the ratio of the net  
7 present value of the total benefits of the program to the net  
8 present value of the total costs as calculated over the  
9 lifetime of the measures. A total resource cost test compares  
10 the sum of avoided electric utility costs, representing the  
11 benefits that accrue to the system and the participant in the  
12 delivery of those efficiency measures and including avoided  
13 costs associated with reduced use of natural gas or other  
14 fuels, avoided costs associated with reduced water  
15 consumption, and avoided costs associated with reduced  
16 operation and maintenance costs, as well as other quantifiable  
17 societal benefits, to the sum of all incremental costs of  
18 end-use measures that are implemented due to the program  
19 (including both utility and participant contributions), plus  
20 costs to administer, deliver, and evaluate each demand-side  
21 program, to quantify the net savings obtained by substituting  
22 the demand-side program for supply resources. In calculating  
23 avoided costs of power and energy that an electric utility  
24 would otherwise have had to acquire, reasonable estimates  
25 shall be included of financial costs likely to be imposed by  
26 future regulations and legislation on emissions of greenhouse

1 gases. In discounting future societal costs and benefits for  
2 the purpose of calculating net present values, a societal  
3 discount rate based on actual, long-term Treasury bond yields  
4 should be used. Notwithstanding anything to the contrary, the  
5 TRC test shall not include or take into account a calculation  
6 of market price suppression effects or demand reduction  
7 induced price effects.

8 "Utility-scale solar project" means an electric generating  
9 facility that:

10 (1) generates electricity using photovoltaic cells;  
11 and

12 (2) has a nameplate capacity that is greater than  
13 5,000 kilowatts.

14 "Utility-scale wind project" means an electric generating  
15 facility that:

16 (1) generates electricity using wind; and

17 (2) has a nameplate capacity that is greater than  
18 5,000 kilowatts.

19 "Waste Heat to Power Systems" means systems that capture  
20 and generate electricity from energy that would otherwise be  
21 lost to the atmosphere without the use of additional fuel.

22 "Zero emission credit" means a tradable credit that  
23 represents the environmental attributes of one megawatt hour  
24 of energy produced from a zero emission facility.

25 "Zero emission facility" means a facility that: (1) is  
26 fueled by nuclear power; and (2) is interconnected with PJM

1 Interconnection, LLC or the Midcontinent Independent System  
2 Operator, Inc., or their successors.

3 (Source: P.A. 102-662, eff. 9-15-21; 103-154, eff. 6-28-23;  
4 103-380, eff. 1-1-24.)

5 Section 905. The Public Utilities Act is amended by  
6 changing Sections 16-108 and 16-111.5 as follows:

7 (220 ILCS 5/16-108)

8 Sec. 16-108. Recovery of costs associated with the  
9 provision of delivery and other services.

10 (a) An electric utility shall file a delivery services  
11 tariff with the Commission at least 210 days prior to the date  
12 that it is required to begin offering such services pursuant  
13 to this Act. An electric utility shall provide the components  
14 of delivery services that are subject to the jurisdiction of  
15 the Federal Energy Regulatory Commission at the same prices,  
16 terms and conditions set forth in its applicable tariff as  
17 approved or allowed into effect by that Commission. The  
18 Commission shall otherwise have the authority pursuant to  
19 Article IX to review, approve, and modify the prices, terms  
20 and conditions of those components of delivery services not  
21 subject to the jurisdiction of the Federal Energy Regulatory  
22 Commission, including the authority to determine the extent to  
23 which such delivery services should be offered on an unbundled  
24 basis. In making any such determination the Commission shall

1 consider, at a minimum, the effect of additional unbundling on  
2 (i) the objective of just and reasonable rates, (ii) electric  
3 utility employees, and (iii) the development of competitive  
4 markets for electric energy services in Illinois.

5 (b) The Commission shall enter an order approving, or  
6 approving as modified, the delivery services tariff no later  
7 than 30 days prior to the date on which the electric utility  
8 must commence offering such services. The Commission may  
9 subsequently modify such tariff pursuant to this Act.

10 (c) The electric utility's tariffs shall define the  
11 classes of its customers for purposes of delivery services  
12 charges. Delivery services shall be priced and made available  
13 to all retail customers electing delivery services in each  
14 such class on a nondiscriminatory basis regardless of whether  
15 the retail customer chooses the electric utility, an affiliate  
16 of the electric utility, or another entity as its supplier of  
17 electric power and energy. Charges for delivery services shall  
18 be cost based, and shall allow the electric utility to recover  
19 the costs of providing delivery services through its charges  
20 to its delivery service customers that use the facilities and  
21 services associated with such costs. Such costs shall include  
22 the costs of owning, operating and maintaining transmission  
23 and distribution facilities. The Commission shall also be  
24 authorized to consider whether, and if so to what extent, the  
25 following costs are appropriately included in the electric  
26 utility's delivery services rates: (i) the costs of that

1 portion of generation facilities used for the production and  
2 absorption of reactive power in order that retail customers  
3 located in the electric utility's service area can receive  
4 electric power and energy from suppliers other than the  
5 electric utility, and (ii) the costs associated with the use  
6 and redispatch of generation facilities to mitigate  
7 constraints on the transmission or distribution system in  
8 order that retail customers located in the electric utility's  
9 service area can receive electric power and energy from  
10 suppliers other than the electric utility. Nothing in this  
11 subsection shall be construed as directing the Commission to  
12 allocate any of the costs described in (i) or (ii) that are  
13 found to be appropriately included in the electric utility's  
14 delivery services rates to any particular customer group or  
15 geographic area in setting delivery services rates.

16 (d) The Commission shall establish charges, terms and  
17 conditions for delivery services that are just and reasonable  
18 and shall take into account customer impacts when establishing  
19 such charges. In establishing charges, terms and conditions  
20 for delivery services, the Commission shall take into account  
21 voltage level differences. A retail customer shall have the  
22 option to request to purchase electric service at any delivery  
23 service voltage reasonably and technically feasible from the  
24 electric facilities serving that customer's premises provided  
25 that there are no significant adverse impacts upon system  
26 reliability or system efficiency. A retail customer shall also

1 have the option to request to purchase electric service at any  
2 point of delivery that is reasonably and technically feasible  
3 provided that there are no significant adverse impacts on  
4 system reliability or efficiency. Such requests shall not be  
5 unreasonably denied.

6 (e) Electric utilities shall recover the costs of  
7 installing, operating or maintaining facilities for the  
8 particular benefit of one or more delivery services customers,  
9 including without limitation any costs incurred in complying  
10 with a customer's request to be served at a different voltage  
11 level, directly from the retail customer or customers for  
12 whose benefit the costs were incurred, to the extent such  
13 costs are not recovered through the charges referred to in  
14 subsections (c) and (d) of this Section.

15 (f) An electric utility shall be entitled but not required  
16 to implement transition charges in conjunction with the  
17 offering of delivery services pursuant to Section 16-104. If  
18 an electric utility implements transition charges, it shall  
19 implement such charges for all delivery services customers and  
20 for all customers described in subsection (h), but shall not  
21 implement transition charges for power and energy that a  
22 retail customer takes from cogeneration or self-generation  
23 facilities located on that retail customer's premises, if such  
24 facilities meet the following criteria:

25 (i) the cogeneration or self-generation facilities  
26 serve a single retail customer and are located on that

1 retail customer's premises (for purposes of this  
2 subparagraph and subparagraph (ii), an industrial or  
3 manufacturing retail customer and a third party contractor  
4 that is served by such industrial or manufacturing  
5 customer through such retail customer's own electrical  
6 distribution facilities under the circumstances described  
7 in subsection (vi) of the definition of "alternative  
8 retail electric supplier" set forth in Section 16-102,  
9 shall be considered a single retail customer);

10 (ii) the cogeneration or self-generation facilities  
11 either (A) are sized pursuant to generally accepted  
12 engineering standards for the retail customer's electrical  
13 load at that premises (taking into account standby or  
14 other reliability considerations related to that retail  
15 customer's operations at that site) or (B) if the facility  
16 is a cogeneration facility located on the retail  
17 customer's premises, the retail customer is the thermal  
18 host for that facility and the facility has been designed  
19 to meet that retail customer's thermal energy requirements  
20 resulting in electrical output beyond that retail  
21 customer's electrical demand at that premises, comply with  
22 the operating and efficiency standards applicable to  
23 "qualifying facilities" specified in title 18 Code of  
24 Federal Regulations Section 292.205 as in effect on the  
25 effective date of this amendatory Act of 1999;

26 (iii) the retail customer on whose premises the

1 facilities are located either has an exclusive right to  
2 receive, and corresponding obligation to pay for, all of  
3 the electrical capacity of the facility, or in the case of  
4 a cogeneration facility that has been designed to meet the  
5 retail customer's thermal energy requirements at that  
6 premises, an identified amount of the electrical capacity  
7 of the facility, over a minimum 5-year period; and

8 (iv) if the cogeneration facility is sized for the  
9 retail customer's thermal load at that premises but  
10 exceeds the electrical load, any sales of excess power or  
11 energy are made only at wholesale, are subject to the  
12 jurisdiction of the Federal Energy Regulatory Commission,  
13 and are not for the purpose of circumventing the  
14 provisions of this subsection (f).

15 If a generation facility located at a retail customer's  
16 premises does not meet the above criteria, an electric utility  
17 implementing transition charges shall implement a transition  
18 charge until December 31, 2006 for any power and energy taken  
19 by such retail customer from such facility as if such power and  
20 energy had been delivered by the electric utility. Provided,  
21 however, that an industrial retail customer that is taking  
22 power from a generation facility that does not meet the above  
23 criteria but that is located on such customer's premises will  
24 not be subject to a transition charge for the power and energy  
25 taken by such retail customer from such generation facility if  
26 the facility does not serve any other retail customer and



1 either was installed on behalf of the customer and for its own  
2 use prior to January 1, 1997, or is both predominantly fueled  
3 by byproducts of such customer's manufacturing process at such  
4 premises and sells or offers an average of 300 megawatts or  
5 more of electricity produced from such generation facility  
6 into the wholesale market. Such charges shall be calculated as  
7 provided in Section 16-102, and shall be collected on each  
8 kilowatt-hour delivered under a delivery services tariff to a  
9 retail customer from the date the customer first takes  
10 delivery services until December 31, 2006 except as provided  
11 in subsection (h) of this Section. Provided, however, that an  
12 electric utility, other than an electric utility providing  
13 service to at least 1,000,000 customers in this State on  
14 January 1, 1999, shall be entitled to petition for entry of an  
15 order by the Commission authorizing the electric utility to  
16 implement transition charges for an additional period ending  
17 no later than December 31, 2008. The electric utility shall  
18 file its petition with supporting evidence no earlier than 16  
19 months, and no later than 12 months, prior to December 31,  
20 2006. The Commission shall hold a hearing on the electric  
21 utility's petition and shall enter its order no later than 8  
22 months after the petition is filed. The Commission shall  
23 determine whether and to what extent the electric utility  
24 shall be authorized to implement transition charges for an  
25 additional period. The Commission may authorize the electric  
26 utility to implement transition charges for some or all of the

1 additional period, and shall determine the mitigation factors  
2 to be used in implementing such transition charges; provided,  
3 that the Commission shall not authorize mitigation factors  
4 less than 110% of those in effect during the 12 months ended  
5 December 31, 2006. In making its determination, the Commission  
6 shall consider the following factors: the necessity to  
7 implement transition charges for an additional period in order  
8 to maintain the financial integrity of the electric utility;  
9 the prudence of the electric utility's actions in reducing its  
10 costs since the effective date of this amendatory Act of 1997;  
11 the ability of the electric utility to provide safe, adequate  
12 and reliable service to retail customers in its service area;  
13 and the impact on competition of allowing the electric utility  
14 to implement transition charges for the additional period.

15 (g) The electric utility shall file tariffs that establish  
16 the transition charges to be paid by each class of customers to  
17 the electric utility in conjunction with the provision of  
18 delivery services. The electric utility's tariffs shall define  
19 the classes of its customers for purposes of calculating  
20 transition charges. The electric utility's tariffs shall  
21 provide for the calculation of transition charges on a  
22 customer-specific basis for any retail customer whose average  
23 monthly maximum electrical demand on the electric utility's  
24 system during the 6 months with the customer's highest monthly  
25 maximum electrical demands equals or exceeds 3.0 megawatts for  
26 electric utilities having more than 1,000,000 customers, and

1 for other electric utilities for any customer that has an  
2 average monthly maximum electrical demand on the electric  
3 utility's system of one megawatt or more, and (A) for which  
4 there exists data on the customer's usage during the 3 years  
5 preceding the date that the customer became eligible to take  
6 delivery services, or (B) for which there does not exist data  
7 on the customer's usage during the 3 years preceding the date  
8 that the customer became eligible to take delivery services,  
9 if in the electric utility's reasonable judgment there exists  
10 comparable usage information or a sufficient basis to develop  
11 such information, and further provided that the electric  
12 utility can require customers for which an individual  
13 calculation is made to sign contracts that set forth the  
14 transition charges to be paid by the customer to the electric  
15 utility pursuant to the tariff.

16 (h) An electric utility shall also be entitled to file  
17 tariffs that allow it to collect transition charges from  
18 retail customers in the electric utility's service area that  
19 do not take delivery services but that take electric power or  
20 energy from an alternative retail electric supplier or from an  
21 electric utility other than the electric utility in whose  
22 service area the customer is located. Such charges shall be  
23 calculated, in accordance with the definition of transition  
24 charges in Section 16-102, for the period of time that the  
25 customer would be obligated to pay transition charges if it  
26 were taking delivery services, except that no deduction for

1 delivery services revenues shall be made in such calculation,  
2 and usage data from the customer's class shall be used where  
3 historical usage data is not available for the individual  
4 customer. The customer shall be obligated to pay such charges  
5 on a lump sum basis on or before the date on which the customer  
6 commences to take service from the alternative retail electric  
7 supplier or other electric utility, provided, that the  
8 electric utility in whose service area the customer is located  
9 shall offer the customer the option of signing a contract  
10 pursuant to which the customer pays such charges ratably over  
11 the period in which the charges would otherwise have applied.

12 (i) An electric utility shall be entitled to add to the  
13 bills of delivery services customers charges pursuant to  
14 Sections 9-221, 9-222 (except as provided in Section 9-222.1),  
15 and Section 16-114 of this Act, Section 5-5 of the Electricity  
16 Infrastructure Maintenance Fee Law, Section 6-5 of the  
17 Renewable Energy, Energy Efficiency, and Coal Resources  
18 Development Law of 1997, and Section 13 of the Energy  
19 Assistance Act.

20 (i-5) An electric utility required to impose the Coal to  
21 Solar and Energy Storage Initiative Charge provided for in  
22 subsection (c-5) of Section 1-75 of the Illinois Power Agency  
23 Act shall add such charge to the bills of its delivery services  
24 customers pursuant to the terms of a tariff conforming to the  
25 requirements of subsection (c-5) of Section 1-75 of the  
26 Illinois Power Agency Act and this subsection (i-5) and filed

1 with and approved by the Commission. The electric utility  
2 shall file its proposed tariff with the Commission on or  
3 before July 1, 2022 to be effective, after review and approval  
4 or modification by the Commission, beginning January 1, 2023.  
5 On or before December 1, 2022, the Commission shall review the  
6 electric utility's proposed tariff, including by conducting a  
7 docketed proceeding if deemed necessary by the Commission, and  
8 shall approve the proposed tariff or direct the electric  
9 utility to make modifications the Commission finds necessary  
10 for the tariff to conform to the requirements of subsection  
11 (c-5) of Section 1-75 of the Illinois Power Agency Act and this  
12 subsection (i-5). The electric utility's tariff shall provide  
13 for imposition of the Coal to Solar and Energy Storage  
14 Initiative Charge on a per-kilowatthour basis to all  
15 kilowatthours delivered by the electric utility to its  
16 delivery services customers. The tariff shall provide for the  
17 calculation of the Coal to Solar and Energy Storage Initiative  
18 Charge to be in effect for the year beginning January 1, 2023  
19 and each year beginning January 1 thereafter, sufficient to  
20 collect the electric utility's estimated payment obligations  
21 for the delivery year beginning the following June 1 under  
22 contracts for purchase of renewable energy credits entered  
23 into pursuant to subsection (c-5) of Section 1-75 of the  
24 Illinois Power Agency Act and the obligations of the  
25 Department of Commerce and Economic Opportunity, or any  
26 successor department or agency, which for purposes of this

1 subsection (i-5) shall be referred to as the Department, to  
2 make grant payments during such delivery year from the Coal to  
3 Solar and Energy Storage Initiative Fund pursuant to grant  
4 contracts entered into pursuant to subsection (c-5) of Section  
5 1-75 of the Illinois Power Agency Act, and using the electric  
6 utility's kilowatthour deliveries to its delivery services  
7 customers during the delivery year ended May 31 of the  
8 preceding calendar year. On or before November 1 of each year  
9 beginning November 1, 2022, the Department shall notify the  
10 electric utilities of the amount of the Department's estimated  
11 obligations for grant payments during the delivery year  
12 beginning the following June 1 pursuant to grant contracts  
13 entered into pursuant to subsection (c-5) of Section 1-75 of  
14 the Illinois Power Agency Act; and each electric utility shall  
15 incorporate in the calculation of its Coal to Solar and Energy  
16 Storage Initiative Charge the fractional portion of the  
17 Department's estimated obligations equal to the electric  
18 utility's kilowatthour deliveries to its delivery services  
19 customers in the delivery year ended the preceding May 31  
20 divided by the aggregate deliveries of both electric utilities  
21 to delivery services customers in such delivery year. The  
22 electric utility shall remit on a monthly basis to the State  
23 Treasurer, for deposit in the Coal to Solar and Energy Storage  
24 Initiative Fund provided for in subsection (c-5) of Section  
25 1-75 of the Illinois Power Agency Act, the electric utility's  
26 collections of the Coal to Solar and Energy Storage Initiative

1 Charge estimated to be needed by the Department for grant  
2 payments pursuant to grant contracts entered into pursuant to  
3 subsection (c-5) of Section 1-75 of the Illinois Power Agency  
4 Act. The initial charge under the electric utility's tariff  
5 shall be effective for kilowatthours delivered beginning  
6 January 1, 2023, and thereafter shall be revised to be  
7 effective January 1, 2024 and each January 1 thereafter, based  
8 on the payment obligations for the delivery year beginning the  
9 following June 1. The tariff shall provide for the electric  
10 utility to make an annual filing with the Commission on or  
11 before November 15 of each year, beginning in 2023, setting  
12 forth the Coal to Solar and Energy Storage Initiative Charge  
13 to be in effect for the year beginning the following January 1.  
14 The electric utility's tariff shall also provide that the  
15 electric utility shall make a filing with the Commission on or  
16 before August 1 of each year beginning in 2024 setting forth a  
17 reconciliation, for the delivery year ended the preceding May  
18 31, of the electric utility's collections of the Coal to Solar  
19 and Energy Storage Initiative Charge against actual payments  
20 for renewable energy credits pursuant to contracts entered  
21 into, and the actual grant payments by the Department pursuant  
22 to grant contracts entered into, pursuant to subsection (c-5)  
23 of Section 1-75 of the Illinois Power Agency Act. The tariff  
24 shall provide that any excess or shortfall of collections to  
25 payments shall be deducted from or added to, on a  
26 per-kilowatthour basis, the Coal to Solar and Energy Storage

1 Initiative Charge, over the 6-month period beginning October 1  
2 of that calendar year.

3 (j) If a retail customer that obtains electric power and  
4 energy from cogeneration or self-generation facilities  
5 installed for its own use on or before January 1, 1997,  
6 subsequently takes service from an alternative retail electric  
7 supplier or an electric utility other than the electric  
8 utility in whose service area the customer is located for any  
9 portion of the customer's electric power and energy  
10 requirements formerly obtained from those facilities  
11 (including that amount purchased from the utility in lieu of  
12 such generation and not as standby power purchases, under a  
13 cogeneration displacement tariff in effect as of the effective  
14 date of this amendatory Act of 1997), the transition charges  
15 otherwise applicable pursuant to subsections (f), (g), or (h)  
16 of this Section shall not be applicable in any year to that  
17 portion of the customer's electric power and energy  
18 requirements formerly obtained from those facilities,  
19 provided, that for purposes of this subsection (j), such  
20 portion shall not exceed the average number of kilowatt-hours  
21 per year obtained from the cogeneration or self-generation  
22 facilities during the 3 years prior to the date on which the  
23 customer became eligible for delivery services, except as  
24 provided in subsection (f) of Section 16-110.

25 (k) The electric utility shall be entitled to recover  
26 through tariffed charges all of the costs associated with the



1 purchase of zero emission credits from zero emission  
2 facilities to meet the requirements of subsection (d-5) of  
3 Section 1-75 of the Illinois Power Agency Act and all of the  
4 costs associated with the purchase of carbon mitigation  
5 credits from carbon-free energy resources to meet the  
6 requirements of subsection (d-10) of Section 1-75 of the  
7 Illinois Power Agency Act. Such costs shall include the costs  
8 of procuring the zero emission credits and carbon mitigation  
9 credits from carbon-free energy resources, as well as the  
10 reasonable costs that the utility incurs as part of the  
11 procurement processes and to implement and comply with plans  
12 and processes approved by the Commission under subsections  
13 (d-5) and (d-10). The costs shall be allocated across all  
14 retail customers through a single, uniform cents per  
15 kilowatt-hour charge applicable to all retail customers, which  
16 shall appear as a separate line item on each customer's bill.  
17 Beginning June 1, 2017, the electric utility shall be entitled  
18 to recover through tariffed charges all of the costs  
19 associated with the purchase of renewable energy resources to  
20 meet the renewable energy resource standards of subsection (c)  
21 of Section 1-75 of the Illinois Power Agency Act, under  
22 procurement plans as approved in accordance with that Section  
23 and Section 16-111.5 of this Act. Such costs shall include the  
24 costs of procuring the renewable energy resources, as well as  
25 the reasonable costs that the utility incurs as part of the  
26 procurement processes and to implement and comply with plans

1 and processes approved by the Commission under such Sections.  
2 The costs associated with the purchase of renewable energy  
3 resources shall be allocated across all retail customers in  
4 proportion to the amount of renewable energy resources the  
5 utility procures for such customers through a single, uniform  
6 cents per kilowatt-hour charge applicable to such retail  
7 customers, which shall appear as a separate line item on each  
8 such customer's bill. The credits, costs, and penalties  
9 associated with the self-direct renewable portfolio standard  
10 compliance program described in subparagraph (R) of paragraph  
11 (1) of subsection (c) of Section 1-75 of the Illinois Power  
12 Agency Act shall be allocated to approved eligible self-direct  
13 customers by the utility in a cents per kilowatt-hour credit,  
14 cost, or penalty, which shall appear as a separate line item on  
15 each such customer's bill.

16 Notwithstanding whether the Commission has approved the  
17 initial long-term renewable resources procurement plan as of  
18 June 1, 2017, an electric utility shall place new tariffed  
19 charges into effect beginning with the June 2017 monthly  
20 billing period, to the extent practicable, to begin recovering  
21 the costs of procuring renewable energy resources, as those  
22 charges are calculated under the limitations described in  
23 subparagraph (E) of paragraph (1) of subsection (c) of Section  
24 1-75 of the Illinois Power Agency Act. Notwithstanding the  
25 date on which the utility places such new tariffed charges  
26 into effect, the utility shall be permitted to collect the

1 charges under such tariff as if the tariff had been in effect  
2 beginning with the first day of the June 2017 monthly billing  
3 period. For the delivery years commencing June 1, 2017, June  
4 1, 2018, June 1, 2019, and each delivery year thereafter, the  
5 electric utility shall deposit into a separate interest  
6 bearing account of a financial institution the monies  
7 collected under the tariffed charges. Money collected from  
8 customers for the procurement of renewable energy resources in  
9 a given delivery year may be spent by the utility for the  
10 procurement of renewable resources over any of the following 5  
11 delivery years, after which unspent money shall be credited  
12 back to retail customers. The electric utility shall spend all  
13 money collected in earlier delivery years that has not yet  
14 been returned to customers, first, before spending money  
15 collected in later delivery years. Any interest earned shall  
16 be credited back to retail customers under the reconciliation  
17 proceeding provided for in this subsection (k), provided that  
18 the electric utility shall first be reimbursed from the  
19 interest for the administrative costs that it incurs to  
20 administer and manage the account. Any taxes due on the funds  
21 in the account, or interest earned on it, will be paid from the  
22 account or, if insufficient monies are available in the  
23 account, from the monies collected under the tariffed charges  
24 to recover the costs of procuring renewable energy resources.  
25 Monies deposited in the account shall be subject to the  
26 review, reconciliation, and true-up process described in this

1 subsection (k) that is applicable to the funds collected and  
2 costs incurred for the procurement of renewable energy  
3 resources.

4 The electric utility shall be entitled to recover all of  
5 the costs identified in this subsection (k) through automatic  
6 adjustment clause tariffs applicable to all of the utility's  
7 retail customers that allow the electric utility to adjust its  
8 tariffed charges consistent with this subsection (k). The  
9 determination as to whether any excess funds were collected  
10 during a given delivery year for the purchase of renewable  
11 energy resources, and the crediting of any excess funds back  
12 to retail customers, shall not be made until after the close of  
13 the delivery year, which will ensure that the maximum amount  
14 of funds is available to implement the approved long-term  
15 renewable resources procurement plan during a given delivery  
16 year. The amount of excess funds eligible to be credited back  
17 to retail customers shall be reduced by an amount equal to the  
18 payment obligations required by any contracts entered into by  
19 an electric utility under contracts described in subsection  
20 (b) of Section 1-56 and subsection (c) of Section 1-75 of the  
21 Illinois Power Agency Act, even if such payments have not yet  
22 been made and regardless of the delivery year in which those  
23 payment obligations were incurred. Notwithstanding anything to  
24 the contrary, including in tariffs authorized by this  
25 subsection (k) in effect before the effective date of this  
26 amendatory Act of the 102nd General Assembly, all unspent

1 funds as of May 31, 2021, excluding any funds credited to  
2 customers during any utility billing cycle that commences  
3 prior to the effective date of this amendatory Act of the 102nd  
4 General Assembly, shall remain in the utility account and  
5 shall on a first in, first out basis be used toward utility  
6 payment obligations under contracts described in subsection  
7 (b) of Section 1-56 and subsection (c) of Section 1-75 of the  
8 Illinois Power Agency Act. The electric utility's collections  
9 under such automatic adjustment clause tariffs to recover the  
10 costs of renewable energy resources, zero emission credits  
11 from zero emission facilities, and carbon mitigation credits  
12 from carbon-free energy resources shall be subject to separate  
13 annual review, reconciliation, and true-up against actual  
14 costs by the Commission under a procedure that shall be  
15 specified in the electric utility's automatic adjustment  
16 clause tariffs and that shall be approved by the Commission in  
17 connection with its approval of such tariffs. The procedure  
18 shall provide that any difference between the electric  
19 utility's collections for zero emission credits and carbon  
20 mitigation credits under the automatic adjustment charges for  
21 an annual period and the electric utility's actual costs of  
22 zero emission credits from zero emission facilities and carbon  
23 mitigation credits from carbon-free energy resources for that  
24 same annual period shall be refunded to or collected from, as  
25 applicable, the electric utility's retail customers in  
26 subsequent periods.

1        Nothing in this subsection (k) is intended to affect,  
2        limit, or change the right of the electric utility to recover  
3        the costs associated with the procurement of renewable energy  
4        resources for periods commencing before, on, or after June 1,  
5        2017, as otherwise provided in the Illinois Power Agency Act.

6        The funding available under this subsection (k), if any,  
7        for the programs described under subsection (b) of Section  
8        1-56 of the Illinois Power Agency Act shall not reduce the  
9        amount of funding for the programs described in subparagraph  
10       (O) of paragraph (1) of subsection (c) of Section 1-75 of the  
11       Illinois Power Agency Act. If funding is available under this  
12       subsection (k) for programs described under subsection (b) of  
13       Section 1-56 of the Illinois Power Agency Act, then the  
14       long-term renewable resources plan shall provide for the  
15       Agency to procure contracts in an amount that does not exceed  
16       the funding, and the contracts approved by the Commission  
17       shall be executed by the applicable utility or utilities.

18       (k-5) An electric utility shall be entitled to recover  
19       through tariffed charges all costs associated with the  
20       purchase of geothermal renewable energy credits pursuant to  
21       the Geothermal Homes and Businesses Act. Such costs shall  
22       include: (i) the cost of procuring geothermal renewable energy  
23       credits, (ii) reasonable costs that the utility incurs as part  
24       of the procurement process, and (iii) costs incurred to  
25       implement and comply with any plan or process that is approved  
26       by the Commission.

1       (1) A utility that has terminated any contract executed  
2 under subsection (d-5) or (d-10) of Section 1-75 of the  
3 Illinois Power Agency Act shall be entitled to recover any  
4 remaining balance associated with the purchase of zero  
5 emission credits prior to such termination, and such utility  
6 shall also apply a credit to its retail customer bills in the  
7 event of any over-collection.

8       (m)(1) An electric utility that recovers its costs of  
9 procuring zero emission credits from zero emission facilities  
10 through a cents-per-kilowatthour charge under subsection (k)  
11 of this Section shall be subject to the requirements of this  
12 subsection (m). Notwithstanding anything to the contrary, such  
13 electric utility shall, beginning on April 30, 2018, and each  
14 April 30 thereafter until April 30, 2026, calculate whether  
15 any reduction must be applied to such cents-per-kilowatthour  
16 charge that is paid by retail customers of the electric  
17 utility that have opted out of subsections (a) through (j) of  
18 Section 8-103B of this Act under subsection (1) of Section  
19 8-103B. Such charge shall be reduced for such customers for  
20 the next delivery year commencing on June 1 based on the amount  
21 necessary, if any, to limit the annual estimated average net  
22 increase for the prior calendar year due to the future energy  
23 investment costs to no more than 1.3% of 5.98 cents per  
24 kilowatt-hour, which is the average amount paid per  
25 kilowatthour for electric service during the year ending  
26 December 31, 2015 by Illinois industrial retail customers, as

1 reported to the Edison Electric Institute.

2 The calculations required by this subsection (m) shall be  
3 made only once for each year, and no subsequent rate impact  
4 determinations shall be made.

5 (2) For purposes of this Section, "future energy  
6 investment costs" shall be calculated by subtracting the  
7 cents-per-kilowatthour charge identified in subparagraph (A)  
8 of this paragraph (2) from the sum of the  
9 cents-per-kilowatthour charges identified in subparagraph (B)  
10 of this paragraph (2):

11 (A) The cents-per-kilowatthour charge identified in  
12 the electric utility's tariff placed into effect under  
13 Section 8-103 of the Public Utilities Act that, on  
14 December 1, 2016, was applicable to those retail customers  
15 that have opted out of subsections (a) through (j) of  
16 Section 8-103B of this Act under subsection (l) of Section  
17 8-103B.

18 (B) The sum of the following cents-per-kilowatthour  
19 charges applicable to those retail customers that have  
20 opted out of subsections (a) through (j) of Section 8-103B  
21 of this Act under subsection (l) of Section 8-103B,  
22 provided that if one or more of the following charges has  
23 been in effect and applied to such customers for more than  
24 one calendar year, then each charge shall be equal to the  
25 average of the charges applied over a period that  
26 commences with the calendar year ending December 31, 2017



1 and ends with the most recently completed calendar year  
2 prior to the calculation required by this subsection (m):

3 (i) the cents-per-kilowatthour charge to recover  
4 the costs incurred by the utility under subsection  
5 (d-5) of Section 1-75 of the Illinois Power Agency  
6 Act, adjusted for any reductions required under this  
7 subsection (m); and

8 (ii) the cents-per-kilowatthour charge to recover  
9 the costs incurred by the utility under Section  
10 16-107.6 of the Public Utilities Act.

11 If no charge was applied for a given calendar year  
12 under item (i) or (ii) of this subparagraph (B), then the  
13 value of the charge for that year shall be zero.

14 (3) If a reduction is required by the calculation  
15 performed under this subsection (m), then the amount of the  
16 reduction shall be multiplied by the number of years reflected  
17 in the averages calculated under subparagraph (B) of paragraph  
18 (2) of this subsection (m). Such reduction shall be applied to  
19 the cents-per-kilowatthour charge that is applicable to those  
20 retail customers that have opted out of subsections (a)  
21 through (j) of Section 8-103B of this Act under subsection (1)  
22 of Section 8-103B beginning with the next delivery year  
23 commencing after the date of the calculation required by this  
24 subsection (m).

25 (4) The electric utility shall file a notice with the  
26 Commission on May 1 of 2018 and each May 1 thereafter until May

1 1, 2026 containing the reduction, if any, which must be  
2 applied for the delivery year which begins in the year of the  
3 filing. The notice shall contain the calculations made  
4 pursuant to this Section. By October 1 of each year beginning  
5 in 2018, each electric utility shall notify the Commission if  
6 it appears, based on an estimate of the calculation required  
7 in this subsection (m), that a reduction will be required in  
8 the next year.

9 (Source: P.A. 102-662, eff. 9-15-21.)

10 (220 ILCS 5/16-111.5)

11 Sec. 16-111.5. Provisions relating to procurement.

12 (a) An electric utility that on December 31, 2005 served  
13 at least 100,000 customers in Illinois shall procure power and  
14 energy for its eligible retail customers in accordance with  
15 the applicable provisions set forth in Section 1-75 of the  
16 Illinois Power Agency Act and this Section. Beginning with the  
17 delivery year commencing on June 1, 2017, such electric  
18 utility shall also procure zero emission credits from zero  
19 emission facilities in accordance with the applicable  
20 provisions set forth in Section 1-75 of the Illinois Power  
21 Agency Act, and, for years beginning on or after June 1, 2017,  
22 the utility shall procure renewable energy resources in  
23 accordance with the applicable provisions set forth in Section  
24 1-75 of the Illinois Power Agency Act and this Section.  
25 Beginning with the delivery year commencing on June 1, 2022,

1 an electric utility serving over 3,000,000 customers shall  
2 also procure carbon mitigation credits from carbon-free energy  
3 resources in accordance with the applicable provisions set  
4 forth in Section 1-75 of the Illinois Power Agency Act and this  
5 Section. Beginning with the delivery year commencing on June  
6 1, 2026, such electric utility shall also procure geothermal  
7 renewable energy credits in accordance with the applicable  
8 provisions set forth in the Geothermal Homes and Businesses  
9 Act. A small multi-jurisdictional electric utility that on  
10 December 31, 2005 served less than 100,000 customers in  
11 Illinois may elect to procure power and energy for all or a  
12 portion of its eligible Illinois retail customers in  
13 accordance with the applicable provisions set forth in this  
14 Section and Section 1-75 of the Illinois Power Agency Act.  
15 This Section shall not apply to a small multi-jurisdictional  
16 utility until such time as a small multi-jurisdictional  
17 utility requests the Illinois Power Agency to prepare a  
18 procurement plan for its eligible retail customers. "Eligible  
19 retail customers" for the purposes of this Section means those  
20 retail customers that purchase power and energy from the  
21 electric utility under fixed-price bundled service tariffs,  
22 other than those retail customers whose service is declared or  
23 deemed competitive under Section 16-113 and those other  
24 customer groups specified in this Section, including  
25 self-generating customers, customers electing hourly pricing,  
26 or those customers who are otherwise ineligible for

1 fixed-price bundled tariff service. For those customers that  
2 are excluded from the procurement plan's electric supply  
3 service requirements, and the utility shall procure any supply  
4 requirements, including capacity, ancillary services, and  
5 hourly priced energy, in the applicable markets as needed to  
6 serve those customers, provided that the utility may include  
7 in its procurement plan load requirements for the load that is  
8 associated with those retail customers whose service has been  
9 declared or deemed competitive pursuant to Section 16-113 of  
10 this Act to the extent that those customers are purchasing  
11 power and energy during one of the transition periods  
12 identified in subsection (b) of Section 16-113 of this Act.

13 (b) A procurement plan shall be prepared for each electric  
14 utility consistent with the applicable requirements of the  
15 Illinois Power Agency Act and this Section. For purposes of  
16 this Section, Illinois electric utilities that are affiliated  
17 by virtue of a common parent company are considered to be a  
18 single electric utility. Small multi-jurisdictional utilities  
19 may request a procurement plan for a portion of or all of its  
20 Illinois load. Each procurement plan shall analyze the  
21 projected balance of supply and demand for those retail  
22 customers to be included in the plan's electric supply service  
23 requirements over a 5-year period, with the first planning  
24 year beginning on June 1 of the year following the year in  
25 which the plan is filed. The plan shall specifically identify  
26 the wholesale products to be procured following plan approval,

1 and shall follow all the requirements set forth in the Public  
2 Utilities Act and all applicable State and federal laws,  
3 statutes, rules, or regulations, as well as Commission orders.  
4 Nothing in this Section precludes consideration of contracts  
5 longer than 5 years and related forecast data. Unless  
6 specified otherwise in this Section, in the procurement plan  
7 or in the implementing tariff, any procurement occurring in  
8 accordance with this plan shall be competitively bid through a  
9 request for proposals process. Approval and implementation of  
10 the procurement plan shall be subject to review and approval  
11 by the Commission according to the provisions set forth in  
12 this Section. A procurement plan shall include each of the  
13 following components:

14 (1) Hourly load analysis. This analysis shall include:

15 (i) multi-year historical analysis of hourly  
16 loads;

17 (ii) switching trends and competitive retail  
18 market analysis;

19 (iii) known or projected changes to future loads;

20 and

21 (iv) growth forecasts by customer class.

22 (2) Analysis of the impact of any demand side and  
23 renewable energy initiatives. This analysis shall include:

24 (i) the impact of demand response programs and  
25 energy efficiency programs, both current and  
26 projected; for small multi-jurisdictional utilities,

1 the impact of demand response and energy efficiency  
2 programs approved pursuant to Section 8-408 of this  
3 Act, both current and projected; and

4 (ii) supply side needs that are projected to be  
5 offset by purchases of renewable energy resources, if  
6 any.

7 (3) A plan for meeting the expected load requirements  
8 that will not be met through preexisting contracts. This  
9 plan shall include:

10 (i) definitions of the different Illinois retail  
11 customer classes for which supply is being purchased;

12 (ii) the proposed mix of demand-response products  
13 for which contracts will be executed during the next  
14 year. For small multi-jurisdictional electric  
15 utilities that on December 31, 2005 served fewer than  
16 100,000 customers in Illinois, these shall be defined  
17 as demand-response products offered in an energy  
18 efficiency plan approved pursuant to Section 8-408 of  
19 this Act. The cost-effective demand-response measures  
20 shall be procured whenever the cost is lower than  
21 procuring comparable capacity products, provided that  
22 such products shall:

23 (A) be procured by a demand-response provider  
24 from those retail customers included in the plan's  
25 electric supply service requirements;

26 (B) at least satisfy the demand-response

1 requirements of the regional transmission  
2 organization market in which the utility's service  
3 territory is located, including, but not limited  
4 to, any applicable capacity or dispatch  
5 requirements;

6 (C) provide for customers' participation in  
7 the stream of benefits produced by the  
8 demand-response products;

9 (D) provide for reimbursement by the  
10 demand-response provider of the utility for any  
11 costs incurred as a result of the failure of the  
12 supplier of such products to perform its  
13 obligations thereunder; and

14 (E) meet the same credit requirements as apply  
15 to suppliers of capacity, in the applicable  
16 regional transmission organization market;

17 (iii) monthly forecasted system supply  
18 requirements, including expected minimum, maximum, and  
19 average values for the planning period;

20 (iv) the proposed mix and selection of standard  
21 wholesale products for which contracts will be  
22 executed during the next year, separately or in  
23 combination, to meet that portion of its load  
24 requirements not met through pre-existing contracts,  
25 including but not limited to monthly 5 x 16 peak period  
26 block energy, monthly off-peak wrap energy, monthly 7

1           x 24 energy, annual 5 x 16 energy, other standardized  
2           energy or capacity products designed to provide  
3           eligible retail customer benefits from commercially  
4           deployed advanced technologies including but not  
5           limited to high voltage direct current converter  
6           stations, as such term is defined in Section 1-10 of  
7           the Illinois Power Agency Act, whether or not such  
8           product is currently available in wholesale markets,  
9           annual off-peak wrap energy, annual 7 x 24 energy,  
10          monthly capacity, annual capacity, peak load capacity  
11          obligations, capacity purchase plan, and ancillary  
12          services;

13               (v) proposed term structures for each wholesale  
14          product type included in the proposed procurement plan  
15          portfolio of products; and

16               (vi) an assessment of the price risk, load  
17          uncertainty, and other factors that are associated  
18          with the proposed procurement plan; this assessment,  
19          to the extent possible, shall include an analysis of  
20          the following factors: contract terms, time frames for  
21          securing products or services, fuel costs, weather  
22          patterns, transmission costs, market conditions, and  
23          the governmental regulatory environment; the proposed  
24          procurement plan shall also identify alternatives for  
25          those portfolio measures that are identified as having  
26          significant price risk and mitigation in the form of



1 additional retail customer and ratepayer price,  
2 reliability, and environmental benefits from  
3 standardized energy products delivered from  
4 commercially deployed advanced technologies,  
5 including, but not limited to, high voltage direct  
6 current converter stations, as such term is defined in  
7 Section 1-10 of the Illinois Power Agency Act, whether  
8 or not such product is currently available in  
9 wholesale markets.

10 (4) Proposed procedures for balancing loads. The  
11 procurement plan shall include, for load requirements  
12 included in the procurement plan, the process for (i)  
13 hourly balancing of supply and demand and (ii) the  
14 criteria for portfolio re-balancing in the event of  
15 significant shifts in load.

16 (5) Long-Term Renewable Resources Procurement Plan.  
17 The Agency shall prepare a long-term renewable resources  
18 procurement plan for the procurement of renewable energy  
19 credits under Sections 1-56 and 1-75 of the Illinois Power  
20 Agency Act for delivery beginning in the 2017 delivery  
21 year.

22 (i) The initial long-term renewable resources  
23 procurement plan and all subsequent revisions shall be  
24 subject to review and approval by the Commission. For  
25 the purposes of this Section, "delivery year" has the  
26 same meaning as in Section 1-10 of the Illinois Power

1           Agency Act. For purposes of this Section, "Agency"  
2           shall mean the Illinois Power Agency.

3           (ii) The long-term renewable resources planning  
4           process shall be conducted as follows:

5                   (A) Electric utilities shall provide a range  
6                   of load forecasts to the Illinois Power Agency  
7                   within 45 days of the Agency's request for  
8                   forecasts, which request shall specify the length  
9                   and conditions for the forecasts including, but  
10                  not limited to, the quantity of distributed  
11                  generation expected to be interconnected for each  
12                  year.

13                  (B) The Agency shall publish for comment the  
14                  initial long-term renewable resources procurement  
15                  plan no later than 120 days after the effective  
16                  date of this amendatory Act of the 99th General  
17                  Assembly and shall review, and may revise, the  
18                  plan at least every 2 years thereafter. To the  
19                  extent practicable, the Agency shall review and  
20                  propose any revisions to the long-term renewable  
21                  energy resources procurement plan in conjunction  
22                  with the Agency's other planning and approval  
23                  processes conducted under this Section. The  
24                  initial long-term renewable resources procurement  
25                  plan shall:

26                       (aa) Identify the procurement programs and

1 competitive procurement events consistent with  
2 the applicable requirements of the Illinois  
3 Power Agency Act and shall be designed to  
4 achieve the goals set forth in subsection (c)  
5 of Section 1-75 of that Act.

6 (bb) Include a schedule for procurements  
7 for renewable energy credits from  
8 utility-scale wind projects, utility-scale  
9 solar projects, and brownfield site  
10 photovoltaic projects consistent with  
11 subparagraph (G) of paragraph (1) of  
12 subsection (c) of Section 1-75 of the Illinois  
13 Power Agency Act.

14 (cc) Identify the process whereby the  
15 Agency will submit to the Commission for  
16 review and approval the proposed contracts to  
17 implement the programs required by such plan.

18 Copies of the initial long-term renewable  
19 resources procurement plan and all subsequent  
20 revisions shall be posted and made publicly  
21 available on the Agency's and Commission's  
22 websites, and copies shall also be provided to  
23 each affected electric utility. An affected  
24 utility and other interested parties shall have 45  
25 days following the date of posting to provide  
26 comment to the Agency on the initial long-term

1 renewable resources procurement plan and all  
2 subsequent revisions. All comments submitted to  
3 the Agency shall be specific, supported by data or  
4 other detailed analyses, and, if objecting to all  
5 or a portion of the procurement plan, accompanied  
6 by specific alternative wording or proposals. All  
7 comments shall be posted on the Agency's and  
8 Commission's websites. During this 45-day comment  
9 period, the Agency shall hold at least one public  
10 hearing within each utility's service area that is  
11 subject to the requirements of this paragraph (5)  
12 for the purpose of receiving public comment.  
13 Within 21 days following the end of the 45-day  
14 review period, the Agency may revise the long-term  
15 renewable resources procurement plan based on the  
16 comments received and shall file the plan with the  
17 Commission for review and approval.

18 (C) Within 14 days after the filing of the  
19 initial long-term renewable resources procurement  
20 plan or any subsequent revisions, any person  
21 objecting to the plan may file an objection with  
22 the Commission. Within 21 days after the filing of  
23 the plan, the Commission shall determine whether a  
24 hearing is necessary. The Commission shall enter  
25 its order confirming or modifying the initial  
26 long-term renewable resources procurement plan or

1 any subsequent revisions within 120 days after the  
2 filing of the plan by the Illinois Power Agency.

3 (D) The Commission shall approve the initial  
4 long-term renewable resources procurement plan and  
5 any subsequent revisions, including expressly the  
6 forecast used in the plan and taking into account  
7 that funding will be limited to the amount of  
8 revenues actually collected by the utilities, if  
9 the Commission determines that the plan will  
10 reasonably and prudently accomplish the  
11 requirements of Section 1-56 and subsection (c) of  
12 Section 1-75 of the Illinois Power Agency Act. The  
13 Commission shall also approve the process for the  
14 submission, review, and approval of the proposed  
15 contracts to procure renewable energy credits or  
16 implement the programs authorized by the  
17 Commission pursuant to a long-term renewable  
18 resources procurement plan approved under this  
19 Section.

20 In approving any long-term renewable resources  
21 procurement plan after the effective date of this  
22 amendatory Act of the 102nd General Assembly, the  
23 Commission shall approve or modify the Agency's  
24 proposal for minimum equity standards pursuant to  
25 subsection (c-10) of Section 1-75 of the Illinois  
26 Power Agency Act. The Commission shall consider

1           any analysis performed by the Agency in developing  
2           its proposal, including past performance,  
3           availability of equity eligible contractors, and  
4           availability of equity eligible persons at the  
5           time the long-term renewable resources procurement  
6           plan is approved.

7           (iii) The Agency or third parties contracted by  
8           the Agency shall implement all programs authorized by  
9           the Commission in an approved long-term renewable  
10          resources procurement plan without further review and  
11          approval by the Commission. Third parties shall not  
12          begin implementing any programs or receive any payment  
13          under this Section until the Commission has approved  
14          the contract or contracts under the process authorized  
15          by the Commission in item (D) of subparagraph (ii) of  
16          paragraph (5) of this subsection (b) and the third  
17          party and the Agency or utility, as applicable, have  
18          executed the contract. For those renewable energy  
19          credits subject to procurement through a competitive  
20          bid process under the plan or under the initial  
21          forward procurements for wind and solar resources  
22          described in subparagraph (G) of paragraph (1) of  
23          subsection (c) of Section 1-75 of the Illinois Power  
24          Agency Act, the Agency shall follow the procurement  
25          process specified in the provisions relating to  
26          electricity procurement in subsections (e) through (i)

1 of this Section.

2 (iv) An electric utility shall recover its costs  
3 associated with the procurement of renewable energy  
4 credits under this Section and pursuant to subsection  
5 (c-5) of Section 1-75 of the Illinois Power Agency Act  
6 through an automatic adjustment clause tariff under  
7 subsection (k) or a tariff pursuant to subsection  
8 (i-5), as applicable, of Section 16-108 of this Act. A  
9 utility shall not be required to advance any payment  
10 or pay any amounts under this Section that exceed the  
11 actual amount of revenues collected by the utility  
12 under paragraph (6) of subsection (c) of Section 1-75  
13 of the Illinois Power Agency Act, subsection (c-5) of  
14 Section 1-75 of the Illinois Power Agency Act, and  
15 subsection (k) or subsection (i-5), as applicable, of  
16 Section 16-108 of this Act, and contracts executed  
17 under this Section shall expressly incorporate this  
18 limitation.

19 (v) For the public interest, safety, and welfare,  
20 the Agency and the Commission may adopt rules to carry  
21 out the provisions of this Section on an emergency  
22 basis immediately following the effective date of this  
23 amendatory Act of the 99th General Assembly.

24 (vi) On or before July 1 of each year, the  
25 Commission shall hold an informal hearing for the  
26 purpose of receiving comments on the prior year's

1           procurement process and any recommendations for  
2           change.

3           (b-5) An electric utility that as of January 1, 2019  
4           served more than 300,000 retail customers in this State shall  
5           purchase renewable energy credits from new renewable energy  
6           facilities constructed at or adjacent to the sites of  
7           coal-fueled electric generating facilities in this State in  
8           accordance with subsection (c-5) of Section 1-75 of the  
9           Illinois Power Agency Act. Except as expressly provided in  
10          this Section, the plans and procedures for such procurements  
11          shall not be included in the procurement plans provided for in  
12          this Section, but rather shall be conducted and implemented  
13          solely in accordance with subsection (c-5) of Section 1-75 of  
14          the Illinois Power Agency Act.

15          (c) The provisions of this subsection (c) shall not apply  
16          to procurements conducted pursuant to subsection (c-5) of  
17          Section 1-75 of the Illinois Power Agency Act. However, the  
18          Agency may retain a procurement administrator to assist the  
19          Agency in planning and carrying out the procurement events and  
20          implementing the other requirements specified in such  
21          subsection (c-5) of Section 1-75 of the Illinois Power Agency  
22          Act, with the costs incurred by the Agency for the procurement  
23          administrator to be recovered through fees charged to  
24          applicants for selection to sell and deliver renewable energy  
25          credits to electric utilities pursuant to subsection (c-5) of  
26          Section 1-75 of the Illinois Power Agency Act. The procurement



1 process set forth in Section 1-75 of the Illinois Power Agency  
2 Act and subsection (e) of this Section shall be administered  
3 by a procurement administrator and monitored by a procurement  
4 monitor.

5 (1) The procurement administrator shall:

6 (i) design the final procurement process in  
7 accordance with Section 1-75 of the Illinois Power  
8 Agency Act and subsection (e) of this Section  
9 following Commission approval of the procurement plan;

10 (ii) develop benchmarks in accordance with  
11 subsection (e)(3) to be used to evaluate bids; these  
12 benchmarks shall be submitted to the Commission for  
13 review and approval on a confidential basis prior to  
14 the procurement event;

15 (iii) serve as the interface between the electric  
16 utility and suppliers;

17 (iv) manage the bidder pre-qualification and  
18 registration process;

19 (v) obtain the electric utilities' agreement to  
20 the final form of all supply contracts and credit  
21 collateral agreements;

22 (vi) administer the request for proposals process;

23 (vii) have the discretion to negotiate to  
24 determine whether bidders are willing to lower the  
25 price of bids that meet the benchmarks approved by the  
26 Commission; any post-bid negotiations with bidders

1 shall be limited to price only and shall be completed  
2 within 24 hours after opening the sealed bids and  
3 shall be conducted in a fair and unbiased manner; in  
4 conducting the negotiations, there shall be no  
5 disclosure of any information derived from proposals  
6 submitted by competing bidders; if information is  
7 disclosed to any bidder, it shall be provided to all  
8 competing bidders;

9 (viii) maintain confidentiality of supplier and  
10 bidding information in a manner consistent with all  
11 applicable laws, rules, regulations, and tariffs;

12 (ix) submit a confidential report to the  
13 Commission recommending acceptance or rejection of  
14 bids;

15 (x) notify the utility of contract counterparties  
16 and contract specifics; and

17 (xi) administer related contingency procurement  
18 events.

19 (2) The procurement monitor, who shall be retained by  
20 the Commission, shall:

21 (i) monitor interactions among the procurement  
22 administrator, suppliers, and utility;

23 (ii) monitor and report to the Commission on the  
24 progress of the procurement process;

25 (iii) provide an independent confidential report  
26 to the Commission regarding the results of the

1 procurement event;

2 (iv) assess compliance with the procurement plans  
3 approved by the Commission for each utility that on  
4 December 31, 2005 provided electric service to at  
5 least 100,000 customers in Illinois and for each small  
6 multi-jurisdictional utility that on December 31, 2005  
7 served less than 100,000 customers in Illinois;

8 (v) preserve the confidentiality of supplier and  
9 bidding information in a manner consistent with all  
10 applicable laws, rules, regulations, and tariffs;

11 (vi) provide expert advice to the Commission and  
12 consult with the procurement administrator regarding  
13 issues related to procurement process design, rules,  
14 protocols, and policy-related matters; and

15 (vii) consult with the procurement administrator  
16 regarding the development and use of benchmark  
17 criteria, standard form contracts, credit policies,  
18 and bid documents.

19 (d) Except as provided in subsection (j), the planning  
20 process shall be conducted as follows:

21 (1) Beginning in 2008, each Illinois utility procuring  
22 power pursuant to this Section shall annually provide a  
23 range of load forecasts to the Illinois Power Agency by  
24 July 15 of each year, or such other date as may be required  
25 by the Commission or Agency. The load forecasts shall  
26 cover the 5-year procurement planning period for the next

1 procurement plan and shall include hourly data  
2 representing a high-load, low-load, and expected-load  
3 scenario for the load of those retail customers included  
4 in the plan's electric supply service requirements. The  
5 utility shall provide supporting data and assumptions for  
6 each of the scenarios.

7 (2) Beginning in 2008, the Illinois Power Agency shall  
8 prepare a procurement plan by August 15th of each year, or  
9 such other date as may be required by the Commission. The  
10 procurement plan shall identify the portfolio of  
11 demand-response and power and energy products to be  
12 procured. Cost-effective demand-response measures shall be  
13 procured as set forth in item (iii) of subsection (b) of  
14 this Section. Copies of the procurement plan shall be  
15 posted and made publicly available on the Agency's and  
16 Commission's websites, and copies shall also be provided  
17 to each affected electric utility. An affected utility  
18 shall have 30 days following the date of posting to  
19 provide comment to the Agency on the procurement plan.  
20 Other interested entities also may comment on the  
21 procurement plan. All comments submitted to the Agency  
22 shall be specific, supported by data or other detailed  
23 analyses, and, if objecting to all or a portion of the  
24 procurement plan, accompanied by specific alternative  
25 wording or proposals. All comments shall be posted on the  
26 Agency's and Commission's websites. During this 30-day

1 comment period, the Agency shall hold at least one public  
2 hearing within each utility's service area for the purpose  
3 of receiving public comment on the procurement plan.  
4 Within 14 days following the end of the 30-day review  
5 period, the Agency shall revise the procurement plan as  
6 necessary based on the comments received and file the  
7 procurement plan with the Commission and post the  
8 procurement plan on the websites.

9 (3) Within 5 days after the filing of the procurement  
10 plan, any person objecting to the procurement plan shall  
11 file an objection with the Commission. Within 10 days  
12 after the filing, the Commission shall determine whether a  
13 hearing is necessary. The Commission shall enter its order  
14 confirming or modifying the procurement plan within 90  
15 days after the filing of the procurement plan by the  
16 Illinois Power Agency.

17 (4) The Commission shall approve the procurement plan,  
18 including expressly the forecast used in the procurement  
19 plan, if the Commission determines that it will 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.

24 (4.5) The Commission shall review the Agency's  
25 recommendations for the selection of applicants to enter  
26 into long-term contracts for the sale and delivery of

1 renewable energy credits from new renewable energy  
2 facilities to be constructed at or adjacent to the sites  
3 of coal-fueled electric generating facilities in this  
4 State in accordance with the provisions of subsection  
5 (c-5) of Section 1-75 of the Illinois Power Agency Act,  
6 and shall approve the Agency's recommendations if the  
7 Commission determines that the applicants recommended by  
8 the Agency for selection, the proposed new renewable  
9 energy facilities to be constructed, the amounts of  
10 renewable energy credits to be delivered pursuant to the  
11 contracts, and the other terms of the contracts, are  
12 consistent with the requirements of subsection (c-5) of  
13 Section 1-75 of the Illinois Power Agency Act.

14 (e) The procurement process shall include each of the  
15 following components:

16 (1) Solicitation, pre-qualification, and registration  
17 of bidders. The procurement administrator shall  
18 disseminate information to potential bidders to promote a  
19 procurement event, notify potential bidders that the  
20 procurement administrator may enter into a post-bid price  
21 negotiation with bidders that meet the applicable  
22 benchmarks, provide supply requirements, and otherwise  
23 explain the competitive procurement process. In addition  
24 to such other publication as the procurement administrator  
25 determines is appropriate, this information shall be  
26 posted on the Illinois Power Agency's and the Commission's

1 websites. The procurement administrator shall also  
2 administer the prequalification process, including  
3 evaluation of credit worthiness, compliance with  
4 procurement rules, and agreement to the standard form  
5 contract developed pursuant to paragraph (2) of this  
6 subsection (e). The procurement administrator shall then  
7 identify and register bidders to participate in the  
8 procurement event.

9 (2) Standard contract forms and credit terms and  
10 instruments. The procurement administrator, in  
11 consultation with the utilities, the Commission, and other  
12 interested parties and subject to Commission oversight,  
13 shall develop and provide standard contract forms for the  
14 supplier contracts that meet generally accepted industry  
15 practices. Standard credit terms and instruments that meet  
16 generally accepted industry practices shall be similarly  
17 developed. The procurement administrator shall make  
18 available to the Commission all written comments it  
19 receives on the contract forms, credit terms, or  
20 instruments. If the procurement administrator cannot reach  
21 agreement with the applicable electric utility as to the  
22 contract terms and conditions, the procurement  
23 administrator must notify the Commission of any disputed  
24 terms and the Commission shall resolve the dispute. The  
25 terms of the contracts shall not be subject to negotiation  
26 by winning bidders, and the bidders must agree to the

1 terms of the contract in advance so that winning bids are  
2 selected solely on the basis of price.

3 (3) Establishment of a market-based price benchmark.  
4 As part of the development of the procurement process, the  
5 procurement administrator, in consultation with the  
6 Commission staff, Agency staff, and the procurement  
7 monitor, shall establish benchmarks for evaluating the  
8 final prices in the contracts for each of the products  
9 that will be procured through the procurement process. The  
10 benchmarks shall be based on price data for similar  
11 products for the same delivery period and same delivery  
12 hub, or other delivery hubs after adjusting for that  
13 difference. The price benchmarks may also be adjusted to  
14 take into account differences between the information  
15 reflected in the underlying data sources and the specific  
16 products and procurement process being used to procure  
17 power for the Illinois utilities. The benchmarks shall be  
18 confidential but shall be provided to, and will be subject  
19 to Commission review and approval, prior to a procurement  
20 event.

21 (4) Request for proposals competitive procurement  
22 process. The procurement administrator shall design and  
23 issue a request for proposals to supply electricity in  
24 accordance with each utility's procurement plan, as  
25 approved by the Commission. The request for proposals  
26 shall set forth a procedure for sealed, binding commitment



1 bidding with pay-as-bid settlement, and provision for  
2 selection of bids on the basis of price.

3 (5) A plan for implementing contingencies in the event  
4 of supplier default or failure of the procurement process  
5 to fully meet the expected load requirement due to  
6 insufficient supplier participation, Commission rejection  
7 of results, or any other cause.

8 (i) Event of supplier default: In the event of  
9 supplier default, the utility shall review the  
10 contract of the defaulting supplier to determine if  
11 the amount of supply is 200 megawatts or greater, and  
12 if there are more than 60 days remaining of the  
13 contract term. If both of these conditions are met,  
14 and the default results in termination of the  
15 contract, the utility shall immediately notify the  
16 Illinois Power Agency that a request for proposals  
17 must be issued to procure replacement power, and the  
18 procurement administrator shall run an additional  
19 procurement event. If the contracted supply of the  
20 defaulting supplier is less than 200 megawatts or  
21 there are less than 60 days remaining of the contract  
22 term, the utility shall procure power and energy from  
23 the applicable regional transmission organization  
24 market, including ancillary services, capacity, and  
25 day-ahead or real time energy, or both, for the  
26 duration of the contract term to replace the

1           contracted supply; provided, however, that if a needed  
2           product is not available through the regional  
3           transmission organization market it shall be purchased  
4           from the wholesale market.

5           (ii) Failure of the procurement process to fully  
6           meet the expected load requirement: If the procurement  
7           process fails to fully meet the expected load  
8           requirement due to insufficient supplier participation  
9           or due to a Commission rejection of the procurement  
10          results, the procurement administrator, the  
11          procurement monitor, and the Commission staff shall  
12          meet within 10 days to analyze potential causes of low  
13          supplier interest or causes for the Commission  
14          decision. If changes are identified that would likely  
15          result in increased supplier participation, or that  
16          would address concerns causing the Commission to  
17          reject the results of the prior procurement event, the  
18          procurement administrator may implement those changes  
19          and rerun the request for proposals process according  
20          to a schedule determined by those parties and  
21          consistent with Section 1-75 of the Illinois Power  
22          Agency Act and this subsection. In any event, a new  
23          request for proposals process shall be implemented by  
24          the procurement administrator within 90 days after the  
25          determination that the procurement process has failed  
26          to fully meet the expected load requirement.

1           (iii) In all cases where there is insufficient  
2           supply provided under contracts awarded through the  
3           procurement process to fully meet the electric  
4           utility's load requirement, the utility shall meet the  
5           load requirement by procuring power and energy from  
6           the applicable regional transmission organization  
7           market, including ancillary services, capacity, and  
8           day-ahead or real time energy, or both; provided,  
9           however, that if a needed product is not available  
10          through the regional transmission organization market  
11          it shall be purchased from the wholesale market.

12          (6) The procurement processes described in this  
13          subsection and in subsection (c-5) of Section 1-75 of the  
14          Illinois Power Agency Act are exempt from the requirements  
15          of the Illinois Procurement Code, pursuant to Section  
16          20-10 of that Code.

17          (f) Within 2 business days after opening the sealed bids,  
18          the procurement administrator shall submit a confidential  
19          report to the Commission. The report shall contain the results  
20          of the bidding for each of the products along with the  
21          procurement administrator's recommendation for the acceptance  
22          and rejection of bids based on the price benchmark criteria  
23          and other factors observed in the process. The procurement  
24          monitor also shall submit a confidential report to the  
25          Commission within 2 business days after opening the sealed  
26          bids. The report shall contain the procurement monitor's

1 assessment of bidder behavior in the process as well as an  
2 assessment of the procurement administrator's compliance with  
3 the procurement process and rules. The Commission shall review  
4 the confidential reports submitted by the procurement  
5 administrator and procurement monitor, and shall accept or  
6 reject the recommendations of the procurement administrator  
7 within 2 business days after receipt of the reports.

8 (g) Within 3 business days after the Commission decision  
9 approving the results of a procurement event, the utility  
10 shall enter into binding contractual arrangements with the  
11 winning suppliers using the standard form contracts; except  
12 that the utility shall not be required either directly or  
13 indirectly to execute the contracts if a tariff that is  
14 consistent with subsection (1) of this Section has not been  
15 approved and placed into effect for that utility.

16 (h) For the procurement of standard wholesale products,  
17 the names of the successful bidders and the load weighted  
18 average of the winning bid prices for each contract type and  
19 for each contract term shall be made available to the public at  
20 the time of Commission approval of a procurement event. For  
21 procurements conducted to meet the requirements of subsection  
22 (b) of Section 1-56 or subsection (c) of Section 1-75 of the  
23 Illinois Power Agency Act governed by the provisions of this  
24 Section, the address and nameplate capacity of the new  
25 renewable energy generating facility proposed by a winning  
26 bidder shall also be made available to the public at the time

1 of Commission approval of a procurement event, along with the  
2 business address and contact information for any winning  
3 bidder. An estimate or approximation of the nameplate capacity  
4 of the new renewable energy generating facility may be  
5 disclosed if necessary to protect the confidentiality of  
6 individual bid prices.

7 The Commission, the procurement monitor, the procurement  
8 administrator, the Illinois Power Agency, and all participants  
9 in the procurement process shall maintain the confidentiality  
10 of all other supplier and bidding information in a manner  
11 consistent with all applicable laws, rules, regulations, and  
12 tariffs. Confidential information, including the confidential  
13 reports submitted by the procurement administrator and  
14 procurement monitor pursuant to subsection (f) of this  
15 Section, shall not be made publicly available and shall not be  
16 discoverable by any party in any proceeding, absent a  
17 compelling demonstration of need, nor shall those reports be  
18 admissible in any proceeding other than one for law  
19 enforcement purposes.

20 (i) Within 2 business days after a Commission decision  
21 approving the results of a procurement event or such other  
22 date as may be required by the Commission from time to time,  
23 the utility shall file for informational purposes with the  
24 Commission its actual or estimated retail supply charges, as  
25 applicable, by customer supply group reflecting the costs  
26 associated with the procurement and computed in accordance

1 with the tariffs filed pursuant to subsection (l) of this  
2 Section and approved by the Commission.

3 (j) Within 60 days following August 28, 2007 (the  
4 effective date of Public Act 95-481), each electric utility  
5 that on December 31, 2005 provided electric service to at  
6 least 100,000 customers in Illinois shall prepare and file  
7 with the Commission an initial procurement plan, which shall  
8 conform in all material respects to the requirements of the  
9 procurement plan set forth in subsection (b); provided,  
10 however, that the Illinois Power Agency Act shall not apply to  
11 the initial procurement plan prepared pursuant to this  
12 subsection. The initial procurement plan shall identify the  
13 portfolio of power and energy products to be procured and  
14 delivered for the period June 2008 through May 2009, and shall  
15 identify the proposed procurement administrator, who shall  
16 have the same experience and expertise as is required of a  
17 procurement administrator hired pursuant to Section 1-75 of  
18 the Illinois Power Agency Act. Copies of the procurement plan  
19 shall be posted and made publicly available on the  
20 Commission's website. The initial procurement plan may include  
21 contracts for renewable resources that extend beyond May 2009.

22 (i) Within 14 days following filing of the initial  
23 procurement plan, any person may file a detailed objection  
24 with the Commission contesting the procurement plan  
25 submitted by the electric utility. All objections to the  
26 electric utility's plan shall be specific, supported by

1 data or other detailed analyses. The electric utility may  
2 file a response to any objections to its procurement plan  
3 within 7 days after the date objections are due to be  
4 filed. Within 7 days after the date the utility's response  
5 is due, the Commission shall determine whether a hearing  
6 is necessary. If it determines that a hearing is  
7 necessary, it shall require the hearing to be completed  
8 and issue an order on the procurement plan within 60 days  
9 after the filing of the procurement plan by the electric  
10 utility.

11 (ii) The order shall approve or modify the procurement  
12 plan, approve an independent procurement administrator,  
13 and approve or modify the electric utility's tariffs that  
14 are proposed with the initial procurement plan. The  
15 Commission shall approve the procurement plan if the  
16 Commission determines that it will ensure adequate,  
17 reliable, affordable, efficient, and environmentally  
18 sustainable electric service at the lowest total cost over  
19 time, taking into account any benefits of price stability.

20 (k) (Blank).

21 (k-5) (Blank).

22 (l) An electric utility shall recover its costs incurred  
23 under this Section and subsection (c-5) of Section 1-75 of the  
24 Illinois Power Agency Act, including, but not limited to, the  
25 costs of procuring power and energy demand-response resources  
26 under this Section and its costs for purchasing renewable

1 energy credits pursuant to subsection (c-5) of Section 1-75 of  
2 the Illinois Power Agency Act. The utility shall file with the  
3 initial procurement plan its proposed tariffs through which  
4 its costs of procuring power that are incurred pursuant to a  
5 Commission-approved procurement plan and those other costs  
6 identified in this subsection (1), will be recovered. The  
7 tariffs shall include a formula rate or charge designed to  
8 pass through both the costs incurred by the utility in  
9 procuring a supply of electric power and energy for the  
10 applicable customer classes with no mark-up or return on the  
11 price paid by the utility for that supply, plus any just and  
12 reasonable costs that the utility incurs in arranging and  
13 providing for the supply of electric power and energy. The  
14 formula rate or charge shall also contain provisions that  
15 ensure that its application does not result in over or under  
16 recovery due to changes in customer usage and demand patterns,  
17 and that provide for the correction, on at least an annual  
18 basis, of any accounting errors that may occur. A utility  
19 shall recover through the tariff all reasonable costs incurred  
20 to implement or comply with any procurement plan that is  
21 developed and put into effect pursuant to Section 1-75 of the  
22 Illinois Power Agency Act and this Section, and for the  
23 procurement of renewable energy credits pursuant to subsection  
24 (c-5) of Section 1-75 of the Illinois Power Agency Act,  
25 including any fees assessed by the Illinois Power Agency,  
26 costs associated with load balancing, and contingency plan



1 costs. The electric utility shall also recover its full costs  
2 of procuring electric supply for which it contracted before  
3 the effective date of this Section in conjunction with the  
4 provision of full requirements service under fixed-price  
5 bundled service tariffs subsequent to December 31, 2006. All  
6 such costs shall be deemed to have been prudently incurred.  
7 The pass-through tariffs that are filed and approved pursuant  
8 to this Section shall not be subject to review under, or in any  
9 way limited by, Section 16-111(i) of this Act. All of the costs  
10 incurred by the electric utility associated with the purchase  
11 of zero emission credits in accordance with subsection (d-5)  
12 of Section 1-75 of the Illinois Power Agency Act, all costs  
13 incurred by the electric utility associated with the purchase  
14 of carbon mitigation credits in accordance with subsection  
15 (d-10) of Section 1-75 of the Illinois Power Agency Act, and,  
16 beginning June 1, 2017, all of the costs incurred by the  
17 electric utility associated with the purchase of renewable  
18 energy resources in accordance with Sections 1-56 and 1-75 of  
19 the Illinois Power Agency Act, and all of the costs incurred by  
20 the electric utility in purchasing renewable energy credits in  
21 accordance with subsection (c-5) of Section 1-75 of the  
22 Illinois Power Agency Act, shall be recovered through the  
23 electric utility's tariffed charges applicable to all of its  
24 retail customers, as specified in subsection (k) or subsection  
25 (i-5), as applicable, of Section 16-108 of this Act, and shall  
26 not be recovered through the electric utility's tariffed

1 charges for electric power and energy supply to its eligible  
2 retail customers.

3 (m) The Commission has the authority to adopt rules to  
4 carry out the provisions of this Section. For the public  
5 interest, safety, and welfare, the Commission also has  
6 authority to adopt rules to carry out the provisions of this  
7 Section on an emergency basis immediately following August 28,  
8 2007 (the effective date of Public Act 95-481).

9 (n) Notwithstanding any other provision of this Act, any  
10 affiliated electric utilities that submit a single procurement  
11 plan covering their combined needs may procure for those  
12 combined needs in conjunction with that plan, and may enter  
13 jointly into power supply contracts, purchases, and other  
14 procurement arrangements, and allocate capacity and energy and  
15 cost responsibility therefor among themselves in proportion to  
16 their requirements.

17 (o) On or before June 1 of each year, the Commission shall  
18 hold an informal hearing for the purpose of receiving comments  
19 on the prior year's procurement process and any  
20 recommendations for change.

21 (p) An electric utility subject to this Section may  
22 propose to invest, lease, own, or operate an electric  
23 generation facility as part of its procurement plan, provided  
24 the utility demonstrates that such facility is the least-cost  
25 option to provide electric service to those retail customers  
26 included in the plan's electric supply service requirements.

1 If the facility is shown to be the least-cost option and is  
2 included in a procurement plan prepared in accordance with  
3 Section 1-75 of the Illinois Power Agency Act and this  
4 Section, then the electric utility shall make a filing  
5 pursuant to Section 8-406 of this Act, and may request of the  
6 Commission any statutory relief required thereunder. If the  
7 Commission grants all of the necessary approvals for the  
8 proposed facility, such supply shall thereafter be considered  
9 as a pre-existing contract under subsection (b) of this  
10 Section. The Commission shall in any order approving a  
11 proposal under this subsection specify how the utility will  
12 recover the prudently incurred costs of investing in, leasing,  
13 owning, or operating such generation facility through just and  
14 reasonable rates charged to those retail customers included in  
15 the plan's electric supply service requirements. Cost recovery  
16 for facilities included in the utility's procurement plan  
17 pursuant to this subsection shall not be subject to review  
18 under or in any way limited by the provisions of Section  
19 16-111(i) of this Act. Nothing in this Section is intended to  
20 prohibit a utility from filing for a fuel adjustment clause as  
21 is otherwise permitted under Section 9-220 of this Act.

22 (q) If the Illinois Power Agency filed with the  
23 Commission, under Section 16-111.5 of this Act, its proposed  
24 procurement plan for the period commencing June 1, 2017, and  
25 the Commission has not yet entered its final order approving  
26 the plan on or before the effective date of this amendatory Act

1 of the 99th General Assembly, then the Illinois Power Agency  
2 shall file a notice of withdrawal with the Commission, after  
3 the effective date of this amendatory Act of the 99th General  
4 Assembly, to withdraw the proposed procurement of renewable  
5 energy resources to be approved under the plan, other than the  
6 procurement of renewable energy credits from distributed  
7 renewable energy generation devices using funds previously  
8 collected from electric utilities' retail customers that take  
9 service pursuant to electric utilities' hourly pricing tariff  
10 or tariffs and, for an electric utility that serves less than  
11 100,000 retail customers in the State, other than the  
12 procurement of renewable energy credits from distributed  
13 renewable energy generation devices. Upon receipt of the  
14 notice, the Commission shall enter an order that approves the  
15 withdrawal of the proposed procurement of renewable energy  
16 resources from the plan. The initially proposed procurement of  
17 renewable energy resources shall not be approved or be the  
18 subject of any further hearing, investigation, proceeding, or  
19 order of any kind.

20 This amendatory Act of the 99th General Assembly preempts  
21 and supersedes any order entered by the Commission that  
22 approved the Illinois Power Agency's procurement plan for the  
23 period commencing June 1, 2017, to the extent it is  
24 inconsistent with the provisions of this amendatory Act of the  
25 99th General Assembly. To the extent any previously entered  
26 order approved the procurement of renewable energy resources,

1 the portion of that order approving the procurement shall be  
2 void, other than the procurement of renewable energy credits  
3 from distributed renewable energy generation devices using  
4 funds previously collected from electric utilities' retail  
5 customers that take service under electric utilities' hourly  
6 pricing tariff or tariffs and, for an electric utility that  
7 serves less than 100,000 retail customers in the State, other  
8 than the procurement of renewable energy credits for  
9 distributed renewable energy generation devices.

10 (Source: P.A. 102-662, eff. 9-15-21.)

11 Section 999. Effective date. This Act takes effect upon  
12 becoming law.".