



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB4172

Introduced 10/28/2025, by Rep. Dave Vella

SYNOPSIS AS INTRODUCED:

220 ILCS 5/16-108

Amends the Public Utilities Act. In provisions concerning the recovery of costs associated with the provision of delivery and other services, provides that electric utilities shall not require or collect any security deposit, cash deposit, letter of credit, advance payment, or any other equivalent financial assurance from a large demand project applicant who submits a service or interconnection request if that applicant (1) submitted an application for interconnection or service under existing Commission-approved tariffs and (2) is in good standing with the interconnection and construction requirements applicable to the applicant's service request. Provides that electric utilities shall not delay investment to support, provide service, or interconnect large demand project applicants as a result of the changes made by the amendatory provisions. Provides that the amendatory provisions shall not be construed to limit the following: (1) a utility's enforcement of Commission-approved technical standards for interconnection, (2) a utility's enforcement of reasonable milestones for construction progress, and (3) a utility's ability to recover all costs prudently and reasonably incurred. Provides that the amendatory provisions are inoperative September 1, 2026. Defines "large demand project applicant". Effective immediately.

LRB104 15952 AAS 29187 b

1 AN ACT concerning regulation.

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

4 Section 1. Findings; intent.

5 (a) The General Assembly finds that substantial security
6 deposits as a condition of interconnection or service for
7 large demand project applicants unreasonably deter new
8 investment and delay construction of facilities that otherwise
9 comply with existing interconnection and tariff requirements.

10 (b) It is the intent of the General Assembly to promote
11 economic development and attract investment in advanced
12 manufacturing and digital infrastructure, including
13 large-scale data centers.

14 (b) The changes made by this amendatory Act of the 104th
15 General Assembly are intended to provide temporary relief to
16 large demand project applicants until the General Assembly and
17 the Federal Energy Regulatory Commission implement policies
18 regarding utility deposit practices and transmission service
19 agreements, respectively.

20 (c) This amendatory Act of the 104th General Assembly is
21 not intended to delay the interconnection or service of large
22 demand project applicants.

23 Section 5. The Public Utilities Act is amended by changing

1 Section 16-108 as follows:

2 (220 ILCS 5/16-108)

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

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

24 (b) The Commission shall enter an order approving, or
25 approving as modified, the delivery services tariff no later

1 than 30 days prior to the date on which the electric utility
2 must commence offering such services. The Commission may
3 subsequently modify such tariff pursuant to this Act.

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

1 constraints on the transmission or distribution system in
2 order that retail customers located in the electric utility's
3 service area can receive electric power and energy from
4 suppliers other than the electric utility. Nothing in this
5 subsection shall be construed as directing the Commission to
6 allocate any of the costs described in (i) or (ii) that are
7 found to be appropriately included in the electric utility's
8 delivery services rates to any particular customer group or
9 geographic area in setting delivery services rates.

10 (d) The Commission shall establish charges, terms and
11 conditions for delivery services that are just and reasonable
12 and shall take into account customer impacts when establishing
13 such charges. In establishing charges, terms and conditions
14 for delivery services, the Commission shall take into account
15 voltage level differences. A retail customer shall have the
16 option to request to purchase electric service at any delivery
17 service voltage reasonably and technically feasible from the
18 electric facilities serving that customer's premises provided
19 that there are no significant adverse impacts upon system
20 reliability or system efficiency. A retail customer shall also
21 have the option to request to purchase electric service at any
22 point of delivery that is reasonably and technically feasible
23 provided that there are no significant adverse impacts on
24 system reliability or efficiency. Such requests shall not be
25 unreasonably denied.

26 (e) Electric utilities shall recover the costs of

1 installing, operating or maintaining facilities for the
2 particular benefit of one or more delivery services customers,
3 including without limitation any costs incurred in complying
4 with a customer's request to be served at a different voltage
5 level, directly from the retail customer or customers for
6 whose benefit the costs were incurred, to the extent such
7 costs are not recovered through the charges referred to in
8 subsections (c) and (d) of this Section.

9 (e-5) Notwithstanding any provision of this Act, an
10 electric utility shall not require or collect a security
11 deposit, a cash deposit, a letter of credit, an advance
12 payment, or any other equivalent financial assurance from a
13 large demand project applicant who submits a service or
14 interconnection request if that applicant (1) submitted an
15 application for interconnection or service under existing
16 Commission-approved tariffs and (2) is in good standing with
17 the interconnection and construction requirements applicable
18 to the applicant's service request.

19 An electric utility shall not delay investment to support,
20 provide service, or interconnect large demand project
21 applicants as a result of the changes made by this amendatory
22 Act of the 104th General Assembly. Nothing in this subsection
23 (e-5) shall be construed to limit the following:

24 (1) a utility's enforcement of Commission-approved
25 technical standards for interconnection;

26 (2) a utility's enforcement of reasonable milestones

1 for construction progress; and

2 (3) a utility's ability to recover all costs prudently
3 and reasonably incurred.

4 This amendatory Act of the 104th General Assembly shall
5 preempt and supersede any final Commission orders entered in
6 Docket Nos. 25-677, 25-679, and any other applicable Docket,
7 to the extent the orders are inconsistent with this subsection
8 (e-5).

9 As used in this subsection (e-5), "large demand project
10 applicant" means an applicant or customer who requests a
11 revised or new service or revised or new facilities for a
12 project with a projected load of over 50 megawatts.

13 The provisions of this subsection (e-5) are inoperative
14 September 1, 2026.

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

25 (m)(1) An electric utility that recovers its costs of
26 procuring zero emission credits from zero emission facilities

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

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

22 (2) For purposes of this Section, "future energy
23 investment costs" shall be calculated by subtracting the
24 cents-per-kilowatthour charge identified in subparagraph (A)
25 of this paragraph (2) from the sum of the
26 cents-per-kilowatthour charges identified in subparagraph (B)

1 of this paragraph (2):

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

9 (B) The sum of the following cents-per-kilowatthour
10 charges applicable to those retail customers that have
11 opted out of subsections (a) through (j) of Section 8-103B
12 of this Act under subsection (l) of Section 8-103B,
13 provided that if one or more of the following charges has
14 been in effect and applied to such customers for more than
15 one calendar year, then each charge shall be equal to the
16 average of the charges applied over a period that
17 commences with the calendar year ending December 31, 2017
18 and ends with the most recently completed calendar year
19 prior to the calculation required by this subsection (m):

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

25 (ii) the cents-per-kilowatthour charge to recover
26 the costs incurred by the utility under Section

1 16-107.6 of the Public Utilities Act.

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

5 (3) If a reduction is required by the calculation
6 performed under this subsection (m), then the amount of the
7 reduction shall be multiplied by the number of years reflected
8 in the averages calculated under subparagraph (B) of paragraph
9 (2) of this subsection (m). Such reduction shall be applied to
10 the cents-per-kilowatthour charge that is applicable to those
11 retail customers that have opted out of subsections (a)
12 through (j) of Section 8-103B of this Act under subsection (l)
13 of Section 8-103B beginning with the next delivery year
14 commencing after the date of the calculation required by this
15 subsection (m).

16 (4) The electric utility shall file a notice with the
17 Commission on May 1 of 2018 and each May 1 thereafter until May
18 1, 2026 containing the reduction, if any, which must be
19 applied for the delivery year which begins in the year of the
20 filing. The notice shall contain the calculations made
21 pursuant to this Section. By October 1 of each year beginning
22 in 2018, each electric utility shall notify the Commission if
23 it appears, based on an estimate of the calculation required
24 in this subsection (m), that a reduction will be required in
25 the next year.

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

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.