SB3922

LRB10419421AAS32869b

104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB3922

Introduced 2/6/2026, by Sen. Steve Stadelman

SYNOPSIS AS INTRODUCED:

See Index

Amends the Public Utilities Act. In provisions concerning virtual power plant programs, provides that, in setting the values of upfront payment and performance payment compensation under the provisions, the Illinois Commerce Commission shall set values for eligible systems that include energy storage that are, taking into account the time value of money, not less than: (A) for an eligible system that did not receive and agrees not to apply for a rebate for its storage component under specified provisions, $250 per kilowatt-hour nameplate capacity paid on the date the system is placed in service; or (B) for an eligible system that received a rebate for its storage component under specified provisions, $0 per kilowatt-hour. In provisions concerning distributed generation and storage rebates, provides that, until the later of December 31, 2029 or the threshold date (rather than until December 31, 2029), the value of specified rebates shall be $300 per kilowatt of nameplate generating capacity, measured as nominal DC power output, of the distributed generation. Amends the Counties Code. In provisions concerning setback distances for commercial wind energy facilities or commercial solar energy facilities, specifies that the ability of a county to require a reasonable setback distance between fencing and public rights-of-way if the requirement is not specific to commercial wind energy facilities or commercial solar energy facilities and does not preclude the development of commercial wind energy facilities or commercial solar energy facilities or the ability of commercial wind energy facilities or commercial solar energy facilities to comply with the requirements set forth in the provisions shall not exceed 50 feet between fencing and public rights-of-way. Amends the Illinois Power Agency Act. Provides that a "community renewable generation project" means an electric generating facility that, among other things, is limited in nameplate capacity to less than or equal to 5,000 kilowatts (rather than 10,000 kilowatts). Makes other changes.

LRB104 19421 AAS 32869 b

A BILL FOR

AN ACT concerning regulation.

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

Section 5. The Illinois Power Agency Act is amended by changing Section 1-10 as follows:

(20 ILCS 3855/1-10)

(Text of Section before amendment by P.A. 104-458)

Sec. 1-10. Definitions.

"Agency" means the Illinois Power Agency.

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

"Authority" means the Illinois Finance Authority.

"Brownfield site photovoltaic project" means photovoltaics that are either:

(1) interconnected to an electric utility as defined in this Section, a municipal utility as defined in this Section, a public utility as defined in Section 3-105 of

the Public Utilities Act, or an electric cooperative as defined in Section 3-119 of the Public Utilities Act and located at a site that is regulated by any of the following entities under the following programs:

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

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

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

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

(2) located at the site of a coal mine that has permanently ceased coal production, permanently halted any re-mining operations, and is no longer accepting any coal combustion residues; has both completed all clean-up and remediation obligations under the federal Surface Mining and Reclamation Act of 1977 and all applicable Illinois rules and any other clean-up, remediation, or ongoing monitoring to safeguard the health and well-being of the people of the State of Illinois, as well as demonstrated compliance with all applicable federal and State

environmental rules and regulations, including, but not limited, to 35 Ill. Adm. Code Part 845 and any rules for historic fill of coal combustion residuals, including any rules finalized in Subdocket A of Illinois Pollution Control Board docket R2020-019.

"Clean coal facility" means an electric generating facility that uses primarily coal as a feedstock and that captures and sequesters carbon dioxide emissions at the following levels: at least 50% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation before 2016, at least 70% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation during 2016 or 2017, and at least 90% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation after 2017. The power block of the clean coal facility shall not exceed allowable emission rates for sulfur dioxide, nitrogen oxides, carbon monoxide, particulates and mercury for a natural gas-fired combined-cycle facility the same size as and in the same location as the clean coal facility at the time the clean coal facility obtains an approved air permit. All coal used by a clean coal facility shall have high volatile bituminous rank and greater than 1.7 pounds of sulfur per

million Btu content, unless the clean coal facility does not use gasification technology and was operating as a conventional coal-fired electric generating facility on June 1, 2009 (the effective date of Public Act 95-1027).

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

"Clean coal SNG facility" means a facility that uses a gasification process to produce substitute natural gas, that sequesters at least 90% of the total carbon dioxide emissions that the facility would otherwise emit, that uses at least 90% coal as a feedstock, with all such coal having a high bituminous rank and greater than 1.7 pounds of sulfur per

million Btu content, and that has a valid and effective permit to construct emission sources and air pollution control equipment and approval with respect to the federal regulations for Prevention of Significant Deterioration of Air Quality (PSD) for the plant pursuant to the federal Clean Air Act; provided, however, a clean coal SNG brownfield facility shall not be a clean coal SNG facility.

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

"Commission" means the Illinois Commerce Commission.

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

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

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

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

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

equal to 5,000 kilowatts.

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

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

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

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

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

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

commissioning, and placing that project in operation.

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

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

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

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

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

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

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

(2) interconnected at the distribution system level of either an electric utility as defined in this Section, a municipal utility as defined in this Section that owns or operates electric distribution facilities, or a rural electric cooperative as defined in Section 3-119 of the

Public Utilities Act;

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

(4) (blank).

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

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

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

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

sector; and

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

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

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

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

(3) persons who were formerly incarcerated;

(4) persons whose primary residence is in an equity investment eligible community.

"Equity eligible contractor" means a business that is majority-owned by eligible persons, or a nonprofit or cooperative that is majority-governed by eligible persons, or

is a natural person that is an eligible person offering personal services as an independent contractor.

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

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

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

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

"High voltage direct current renewable energy credit" means a renewable energy credit associated with a renewable energy resource where the renewable energy resource has entered into a contract to transmit the energy associated with such renewable energy credit over high voltage direct current transmission facilities.

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

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

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

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

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

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

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

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

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

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

"Person" means any natural person, firm, partnership, corporation, either domestic or foreign, company, association, limited liability company, joint stock company, or association

and includes any trustee, receiver, assignee, or personal representative thereof.

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

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

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

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

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

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

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

A labor organization and the general contractor building the project shall have the authority to include other terms

and conditions as they deem necessary.

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

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

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

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

"Renewable energy resources" includes energy and its associated renewable energy credit or renewable energy credits from wind, solar thermal energy, photovoltaic cells and panels, biodiesel, anaerobic digestion, crops and untreated and unadulterated organic waste biomass, and hydropower that does not involve new construction of dams, waste heat to power

systems, or qualified combined heat and power systems. For purposes of this Act, landfill gas produced in the State is considered a renewable energy resource. "Renewable energy resources" does not include the incineration or burning of tires, garbage, general household, institutional, and commercial waste, industrial lunchroom or office waste, landscape waste, railroad crossties, utility poles, or construction or demolition debris, other than untreated and unadulterated waste wood. "Renewable energy resources" also includes high voltage direct current renewable energy credits and the associated energy converted to alternating current by a high voltage direct current converter station to the extent that: (1) the generator of such renewable energy resource contracted with a third party to transmit the energy over the high voltage direct current transmission facilities, and (2) the third-party contracting for delivery of renewable energy resources over the high voltage direct current transmission facilities have ownership rights over the unretired associated high voltage direct current renewable energy credit.

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

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

"Sequester" means permanent storage of carbon dioxide by

injecting it into a saline aquifer, a depleted gas reservoir, or an oil reservoir, directly or through an enhanced oil recovery process that may involve intermediate storage, regardless of whether these activities are conducted by a clean coal facility, a clean coal SNG facility, a clean coal SNG brownfield facility, or a party with which a clean coal facility, clean coal SNG facility, or clean coal SNG brownfield facility has contracted for such purposes.

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

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

"Sourcing agreement" means (i) in the case of an electric utility, an agreement between the owner of a clean coal facility and such electric utility, which agreement shall have terms and conditions meeting the requirements of paragraph (3) of subsection (d) of Section 1-75, (ii) in the case of an alternative retail electric supplier, an agreement between the owner of a clean coal facility and such alternative retail electric supplier, which agreement shall have terms and conditions meeting the requirements of Section 16-115(d)(5) of the Public Utilities Act, and (iii) in case of a gas utility, an agreement between the owner of a clean coal SNG brownfield facility and the gas utility, which agreement shall have the terms and conditions meeting the requirements of subsection

(h-1) of Section 9-220 of the Public Utilities Act.

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

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

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

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

"Total resource cost test" or "TRC test" means a standard that is met if, for an investment in energy efficiency or demand-response measures, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net

present value of the total benefits of the program to the net present value of the total costs as calculated over the lifetime of the measures. A total resource cost test compares the sum of avoided electric utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures and including avoided costs associated with reduced use of natural gas or other fuels, avoided costs associated with reduced water consumption, and avoided costs associated with reduced operation and maintenance costs, as well as other quantifiable societal benefits, to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side program, to quantify the net savings obtained by substituting the demand-side program for supply resources. In calculating avoided costs of power and energy that an electric utility would otherwise have had to acquire, reasonable estimates shall be included of financial costs likely to be imposed by future regulations and legislation on emissions of greenhouse gases. In discounting future societal costs and benefits for the purpose of calculating net present values, a societal discount rate based on actual, long-term Treasury bond yields should be used. Notwithstanding anything to the contrary, the TRC test shall not include or take into account a calculation of market price suppression effects or demand reduction

induced price effects.

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

(1) generates electricity using photovoltaic cells; and

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

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

(1) generates electricity using wind; and

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

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

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

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

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

(Text of Section after amendment by P.A. 104-458)

Sec. 1-10. Definitions.

"Agency" means the Illinois Power Agency.

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

"Authority" means the Illinois Finance Authority.

"Brownfield site photovoltaic project" means photovoltaics that are either:

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

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

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

federal Resource Conservation and Recovery Act, as amended;

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

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

(2) located at the site of a coal mine that has permanently ceased coal production, permanently halted any re-mining operations, and is no longer accepting any coal combustion residues; has both completed all clean-up and remediation obligations under the federal Surface Mining and Reclamation Act of 1977 and all applicable Illinois rules and any other clean-up, remediation, or ongoing monitoring to safeguard the health and well-being of the people of the State of Illinois, as well as demonstrated compliance with all applicable federal and State environmental rules and regulations, including, but not limited~~,~~ to~~,~~ 35 Ill. Adm. Code Part 845 and any rules for historic fill of coal combustion residuals, including any rules finalized in Subdocket A of Illinois Pollution Control Board docket R2020-019.

"Clean coal facility" means an electric generating facility that uses primarily coal as a feedstock and that captures and sequesters carbon dioxide emissions at the following levels: at least 50% of the total carbon dioxide emissions that the facility would otherwise emit if, at the

time construction commences, the facility is scheduled to commence operation before 2016, at least 70% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation during 2016 or 2017, and at least 90% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation after 2017. The power block of the clean coal facility shall not exceed allowable emission rates for sulfur dioxide, nitrogen oxides, carbon monoxide, particulates and mercury for a natural gas-fired combined-cycle facility the same size as and in the same location as the clean coal facility at the time the clean coal facility obtains an approved air permit. All coal used by a clean coal facility shall have high volatile bituminous rank and greater than 1.7 pounds of sulfur per million Btu content, unless the clean coal facility does not use gasification technology and was operating as a conventional coal-fired electric generating facility on June 1, 2009 (the effective date of Public Act 95-1027).

"Clean coal SNG brownfield facility" means a facility that (1) has commenced construction by July 1, 2015 on an urban brownfield site in a municipality with at least 1,000,000 residents; (2) uses a gasification process to produce substitute natural gas; (3) uses coal as at least 50% of the total feedstock over the term of any sourcing agreement with a

utility and the remainder of the feedstock may be either petroleum coke or coal, with all such coal having a high bituminous rank and greater than 1.7 pounds of sulfur per million Btu content unless the facility reasonably determines that it is necessary to use additional petroleum coke to deliver additional consumer savings, in which case the facility shall use coal for at least 35% of the total feedstock over the term of any sourcing agreement; and (4) captures and sequesters at least 85% of the total carbon dioxide emissions that the facility would otherwise emit.

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

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

"Commission" means the Illinois Commerce Commission.

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

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

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

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

(4) is limited in nameplate capacity to less than or equal to 5,000 ~~10,000~~ kilowatts.

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

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

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

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

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

(5) the costs of plans, specifications, site study and investigation, installation, surveys, other Agency costs and estimates of costs, and other expenses necessary or incidental to determining the feasibility of any project, together with such other expenses as may be necessary or incidental to the financing, insuring, acquisition, and construction of a specific project and starting up, commissioning, and placing that project in operation.

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

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

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

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

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

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

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

(2) interconnected at the distribution system level of either an electric utility as defined in this Section, a municipal utility as defined in this Section that owns or operates electric distribution facilities, or a rural electric cooperative as defined in Section 3-119 of the Public Utilities Act;

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

(4) (blank).

"Energy efficiency" means measures that reduce the amount of electricity or natural gas consumed in order to achieve a given end use. "Energy efficiency" includes voltage optimization measures that optimize the voltage at points on the electric distribution voltage system and thereby reduce

electricity consumption by electric customers' end use devices. "Energy efficiency" also includes measures that reduce the total Btus of electricity, natural gas, and other fuels needed to meet the end use or uses.

"Energy storage system" has the meaning given to that term in Section 16-135 of the Public Utilities Act. "Energy storage system" does not include technologies that require combustion.

"Energy storage resources" means the operational output or capabilities of energy storage systems. "Energy storage resources" includes, but is not limited to, energy, capacity, and energy storage credits.

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

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

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

(2) environmental justice communities, as defined by the Illinois Power Agency pursuant to the Illinois Power

Agency Act, where residents have historically been subject to disproportionate burdens of pollution, including pollution from the energy sector.

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

(1) persons who graduate from or are current or former participants in the Clean Jobs Workforce Network Program, the Clean Energy Contractor Incubator Program, the Illinois Climate Works Preapprenticeship Program, Returning Residents Clean Jobs Training Program, or the Clean Energy Primes Contractor Accelerator Program, and the solar training pipeline and multi-cultural jobs program created in paragraphs (1) and (3) of subsection (a) of Section 16-108.12 of the Public Utilities Act;

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

(3) persons who were formerly incarcerated;

(4) persons whose primary residence is in an equity investment eligible community.

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

"Facility" means an electric generating unit or a

co-generating unit that produces electricity along with related equipment necessary to connect the facility to an electric transmission or distribution system.

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

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

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

"High voltage direct current renewable energy credit" means a renewable energy credit associated with a renewable energy resource where the renewable energy resource has entered into a contract to transmit the energy associated with such renewable energy credit over high voltage direct current transmission facilities.

"High voltage direct current transmission facilities" means the collection of installed equipment that converts alternating current energy in one location to direct current

and transmits that direct current energy to a high voltage direct current converter station using Voltage Source Conversion technology. "High voltage direct current transmission facilities" includes the high voltage direct current converter station itself and associated high voltage direct current transmission lines. Notwithstanding the preceding, after September 15, 2021 (the effective date of Public Act 102-662), an otherwise qualifying collection of equipment does not qualify as high voltage direct current transmission facilities unless (1) its developer entered into a project labor agreement, is capable of transmitting electricity at 525kv with an Illinois converter station located and interconnected in the region of the PJM Interconnection, LLC, and the system does not operate as a public utility, as that term is defined in Section 3-105 of the Public Utilities Act, serving more than 100,000 customers as of January 1, 2021; or (2) its developer has entered into a project labor agreement prior to construction, the project is capable of transmitting electricity at 525 kilovolts or above, and the project has a converter station that is located in this State or in a state adjacent to this State and is interconnected to PJM Interconnection, LLC, the Midcontinent Independent System Operator, Inc., or their successor.

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

storage facilities.

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

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

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

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

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

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

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

"Nameplate capacity" means the aggregate inverter

nameplate capacity in kilowatts AC.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Retail customer" has the same definition as found in

Section 16-102 of the Public Utilities Act.

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

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

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

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

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

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

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

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

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

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

substantially interchangeable in use and distribution with conventional natural gas.

"Total resource cost test" or "TRC test" means a standard that is met if, for an investment in energy efficiency or demand-response measures, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net present value of the total benefits of the program to the net present value of the total costs as calculated over the lifetime of the measures. A total resource cost test compares the sum of avoided electric utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures and including avoided costs associated with reduced use of natural gas or other fuels, avoided costs associated with reduced water consumption, avoided costs associated with reduced operation and maintenance costs, and avoided societal costs associated with reductions in greenhouse gas emissions, as well as other quantifiable societal benefits, to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side program, to quantify the net savings obtained by substituting the demand-side program for supply resources. The societal costs associated with greenhouse gas emissions shall be $200 per short ton, expressed in 2025 dollars or the most recently approved estimate developed by

the federal government using a real discount rate consistent with long-term Treasury bond yields, whichever is greater. Changes in greenhouse gas emissions due to changes in electricity consumption shall be estimated using long-run marginal emissions rates developed by the National Renewable Energy Laboratory's Cambium model or other Illinois-specific modeling of comparable analytical rigor. In discounting future costs and benefits for the purpose of calculating net present values, a societal discount rate based on actual, long-term Treasury bond yields should be used. Notwithstanding anything to the contrary, the TRC test shall not include or take into account a calculation of market price suppression effects or demand reduction induced price effects.

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

(1) generates electricity using photovoltaic cells; and

(2) has a nameplate capacity that is greater than 5,000 kilowatts alternating current (AC).

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

(1) generates electricity using wind; and

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

"Waste Heat to Power Systems" means systems that capture and generate electricity from energy that would otherwise be

lost to the atmosphere without the use of additional fuel.

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

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

(Source: P.A. 103-154, eff. 6-28-23; 103-380, eff. 1-1-24; 104-458, eff. 6-1-26.)

Section 10. The Counties Code is amended by changing Section 5-12020 as follows:

(55 ILCS 5/5-12020)

(Text of Section before amendment by P.A. 104-458)

Sec. 5-12020. Commercial wind energy facilities and commercial solar energy facilities.

(a) As used in this Section:

"Commercial solar energy facility" means a "commercial solar energy system" as defined in Section 10-720 of the Property Tax Code. "Commercial solar energy facility" does not mean a utility-scale solar energy facility being constructed at a site that was eligible to participate in a procurement event conducted by the Illinois Power Agency pursuant to subsection (c-5) of Section 1-75 of the Illinois Power Agency

Act.

"Commercial wind energy facility" means a wind energy conversion facility of equal or greater than 500 kilowatts in total nameplate generating capacity. "Commercial wind energy facility" includes a wind energy conversion facility seeking an extension of a permit to construct granted by a county or municipality before January 27, 2023 (the effective date of Public Act 102-1123).

"Facility owner" means (i) a person with a direct ownership interest in a commercial wind energy facility or a commercial solar energy facility, or both, regardless of whether the person is involved in acquiring the necessary rights, permits, and approvals or otherwise planning for the construction and operation of the facility, and (ii) at the time the facility is being developed, a person who is acting as a developer of the facility by acquiring the necessary rights, permits, and approvals or by planning for the construction and operation of the facility, regardless of whether the person will own or operate the facility.

"Nonparticipating property" means real property that is not a participating property.

"Nonparticipating residence" means a residence that is located on nonparticipating property and that is existing and occupied on the date that an application for a permit to develop the commercial wind energy facility or the commercial solar energy facility is filed with the county.

"Occupied community building" means any one or more of the following buildings that is existing and occupied on the date that the application for a permit to develop the commercial wind energy facility or the commercial solar energy facility is filed with the county: a school, place of worship, day care facility, public library, or community center.

"Participating property" means real property that is the subject of a written agreement between a facility owner and the owner of the real property that provides the facility owner an easement, option, lease, or license to use the real property for the purpose of constructing a commercial wind energy facility, a commercial solar energy facility, or supporting facilities. "Participating property" also includes real property that is owned by a facility owner for the purpose of constructing a commercial wind energy facility, a commercial solar energy facility, or supporting facilities.

"Participating residence" means a residence that is located on participating property and that is existing and occupied on the date that an application for a permit to develop the commercial wind energy facility or the commercial solar energy facility is filed with the county.

"Protected lands" means real property that is:

(1) subject to a permanent conservation right consistent with the Real Property Conservation Rights Act; or

(2) registered or designated as a nature preserve,

buffer, or land and water reserve under the Illinois Natural Areas Preservation Act.

"Supporting facilities" means the transmission lines, substations, access roads, meteorological towers, storage containers, and equipment associated with the generation and storage of electricity by the commercial wind energy facility or commercial solar energy facility.

"Wind tower" includes the wind turbine tower, nacelle, and blades.

(b) Notwithstanding any other provision of law or whether the county has formed a zoning commission and adopted formal zoning under Section 5-12007, a county may establish standards for commercial wind energy facilities, commercial solar energy facilities, or both. The standards may include all of the requirements specified in this Section but may not include requirements for commercial wind energy facilities or commercial solar energy facilities that are more restrictive than specified in this Section. A county may also regulate the siting of commercial wind energy facilities with standards that are not more restrictive than the requirements specified in this Section in unincorporated areas of the county that are outside the zoning jurisdiction of a municipality and that are outside the 1.5-mile radius surrounding the zoning jurisdiction of a municipality.

(c) If a county has elected to establish standards under subsection (b), before the county grants siting approval or a

special use permit for a commercial wind energy facility or a commercial solar energy facility, or modification of an approved siting or special use permit, the county board of the county in which the facility is to be sited or the zoning board of appeals for the county shall hold at least one public hearing. The public hearing shall be conducted in accordance with the Open Meetings Act and shall be held not more than 60 days after the filing of the application for the facility. The county shall allow interested parties to a special use permit an opportunity to present evidence and to cross-examine witnesses at the hearing, but the county may impose reasonable restrictions on the public hearing, including reasonable time limitations on the presentation of evidence and the cross-examination of witnesses. The county shall also allow public comment at the public hearing in accordance with the Open Meetings Act. The county shall make its siting and permitting decisions not more than 30 days after the conclusion of the public hearing. Notice of the hearing shall be published in a newspaper of general circulation in the county. A facility owner must enter into an agricultural impact mitigation agreement with the Department of Agriculture prior to the date of the required public hearing. A commercial wind energy facility owner seeking an extension of a permit granted by a county prior to July 24, 2015 (the effective date of Public Act 99-132) must enter into an agricultural impact mitigation agreement with the Department of Agriculture prior

to a decision by the county to grant the permit extension. Counties may allow test wind towers or test solar energy systems to be sited without formal approval by the county board.

(d) A county with an existing zoning ordinance in conflict with this Section shall amend that zoning ordinance to be in compliance with this Section within 120 days after January 27, 2023 (the effective date of Public Act 102-1123).

(e) A county may require:

(1) a wind tower of a commercial wind energy facility to be sited as follows, with setback distances measured from the center of the base of the wind tower:

Setback Description	Setback Distance
Occupied Community Buildings	2.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure
Participating Residences	1.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure
Nonparticipating Residences	2.1 times the maximum blade tip

	height of the wind tower to the nearest point on the outside wall of the structure
Boundary Lines of Participating Property	None
Boundary Lines of Nonparticipating Property	1.1 times the maximum blade tip height of the wind tower to the nearest point on the property line of the nonparticipating property
Public Road Rights-of-Way	1.1 times the maximum blade tip height of the wind tower to the center point of the public road right-of-way
Overhead Communication and Electric Transmission and Distribution Facilities (Not Including Overhead Utility Service Lines to Individual Houses or Outbuildings)	1.1 times the maximum blade tip height of the wind tower to the nearest edge of the property line, easement, or right-of-way containing the overhead line

Overhead Utility Service Lines to Individual Houses or Outbuildings	None
Fish and Wildlife Areas and Illinois Nature Preserve Commission Protected Lands	2.1 times the maximum blade tip height of the wind tower to the nearest point on the property line of the fish and wildlife area or protected land

This Section does not exempt or excuse compliance with electric facility clearances approved or required by the National Electrical Code, the National Electrical Safety Code, the Illinois Commerce Commission, and the Federal Energy Regulatory Commission and their designees or successors;

(2) a wind tower of a commercial wind energy facility to be sited so that industry standard computer modeling indicates that any occupied community building or nonparticipating residence will not experience more than 30 hours per year of shadow flicker under planned operating conditions;

(3) a commercial solar energy facility to be sited as follows, with setback distances measured from the nearest edge of any component of the facility:

Setback Description	Setback Distance
Occupied Community Buildings and Dwellings on Nonparticipating Properties	150 feet from the nearest point on the outside wall of the structure
Boundary Lines of Participating Property	None
Public Road Rights-of-Way	50 feet from the nearest edge
Boundary Lines of Nonparticipating Property	50 feet to the nearest point on the property line of the nonparticipating property

(4) a commercial solar energy facility to be sited so that the facility's perimeter is enclosed by fencing having a height of at least 6 feet and no more than 25 feet; and

(5) a commercial solar energy facility to be sited so that no component of a solar panel has a height of more than 20 feet above ground when the solar energy facility's arrays are at full tilt.

The requirements set forth in this subsection (e) may be

waived subject to the written consent of the owner of each affected nonparticipating property.

(f) A county may not set a sound limitation for wind towers in commercial wind energy facilities or any components in commercial solar energy facilities that is more restrictive than the sound limitations established by the Illinois Pollution Control Board under 35 Ill. Adm. Code Parts 900, 901, and 910.

(g) A county may not place any restriction on the installation or use of a commercial wind energy facility or a commercial solar energy facility unless it adopts an ordinance that complies with this Section. A county may not establish siting standards for supporting facilities that preclude development of commercial wind energy facilities or commercial solar energy facilities.

A request for siting approval or a special use permit for a commercial wind energy facility or a commercial solar energy facility, or modification of an approved siting or special use permit, shall be approved if the request is in compliance with the standards and conditions imposed in this Act, the zoning ordinance adopted consistent with this Code, and the conditions imposed under State and federal statutes and regulations.

(h) A county may not adopt zoning regulations that disallow, permanently or temporarily, commercial wind energy facilities or commercial solar energy facilities from being

developed or operated in any district zoned to allow agricultural or industrial uses.

(i) A county may not require permit application fees for a commercial wind energy facility or commercial solar energy facility that are unreasonable. All application fees imposed by the county shall be consistent with fees for projects in the county with similar capital value and cost.

(j) Except as otherwise provided in this Section, a county shall not require standards for construction, decommissioning, or deconstruction of a commercial wind energy facility or commercial solar energy facility or related financial assurances that are more restrictive than those included in the Department of Agriculture's standard wind farm agricultural impact mitigation agreement, template 81818, or standard solar agricultural impact mitigation agreement, version 8.19.19, as applicable and in effect on December 31, 2022. The amount of any decommissioning payment shall be in accordance with the financial assurance required by those agricultural impact mitigation agreements.

(j-5) A commercial wind energy facility or a commercial solar energy facility shall file a farmland drainage plan with the county and impacted drainage districts outlining how surface and subsurface drainage of farmland will be restored during and following construction or deconstruction of the facility. The plan is to be created independently by the facility developer and shall include the location of any

potentially impacted drainage district facilities to the extent this information is publicly available from the county or the drainage district, plans to repair any subsurface drainage affected during construction or deconstruction using procedures outlined in the agricultural impact mitigation agreement entered into by the commercial wind energy facility owner or commercial solar energy facility owner, and procedures for the repair and restoration of surface drainage affected during construction or deconstruction. All surface and subsurface damage shall be repaired as soon as reasonably practicable.

(k) A county may not condition approval of a commercial wind energy facility or commercial solar energy facility on a property value guarantee and may not require a facility owner to pay into a neighboring property devaluation escrow account.

(l) A county may require certain vegetative screening surrounding a commercial wind energy facility or commercial solar energy facility but may not require earthen berms or similar structures.

(m) A county may set blade tip height limitations for wind towers in commercial wind energy facilities but may not set a blade tip height limitation that is more restrictive than the height allowed under a Determination of No Hazard to Air Navigation by the Federal Aviation Administration under 14 CFR Part 77.

(n) A county may require that a commercial wind energy

facility owner or commercial solar energy facility owner provide:

(1) the results and recommendations from consultation with the Illinois Department of Natural Resources that are obtained through the Ecological Compliance Assessment Tool (EcoCAT) or a comparable successor tool; and

(2) the results of the United States Fish and Wildlife Service's Information for Planning and Consulting environmental review or a comparable successor tool that is consistent with (i) the "U.S. Fish and Wildlife Service's Land-Based Wind Energy Guidelines" and (ii) any applicable United States Fish and Wildlife Service solar wildlife guidelines that have been subject to public review.

(o) A county may require a commercial wind energy facility or commercial solar energy facility to adhere to the recommendations provided by the Illinois Department of Natural Resources in an EcoCAT natural resource review report under 17 Ill. Adm. Code Part 1075.

(p) A county may require a facility owner to:

(1) demonstrate avoidance of protected lands as identified by the Illinois Department of Natural Resources and the Illinois Nature Preserve Commission; or

(2) consider the recommendations of the Illinois Department of Natural Resources for setbacks from protected lands, including areas identified by the

Illinois Nature Preserve Commission.

(q) A county may require that a facility owner provide evidence of consultation with the Illinois State Historic Preservation Office to assess potential impacts on State-registered historic sites under the Illinois State Agency Historic Resources Preservation Act.

(r) To maximize community benefits, including, but not limited to, reduced stormwater runoff, flooding, and erosion at the ground mounted solar energy system, improved soil health, and increased foraging habitat for game birds, songbirds, and pollinators, a county may (1) require a commercial solar energy facility owner to plant, establish, and maintain for the life of the facility vegetative ground cover, consistent with the goals of the Pollinator-Friendly Solar Site Act and (2) require the submittal of a vegetation management plan that is in compliance with the agricultural impact mitigation agreement in the application to construct and operate a commercial solar energy facility in the county if the vegetative ground cover and vegetation management plan comply with the requirements of the underlying agreement with the landowner or landowners where the facility will be constructed.

No later than 90 days after January 27, 2023 (the effective date of Public Act 102-1123), the Illinois Department of Natural Resources shall develop guidelines for vegetation management plans that may be required under this

subsection for commercial solar energy facilities. The guidelines must include guidance for short-term and long-term property management practices that provide and maintain native and non-invasive naturalized perennial vegetation to protect the health and well-being of pollinators.

(s) If a facility owner enters into a road use agreement with the Illinois Department of Transportation, a road district, or other unit of local government relating to a commercial wind energy facility or a commercial solar energy facility, the road use agreement shall require the facility owner to be responsible for (i) the reasonable cost of improving roads used by the facility owner to construct the commercial wind energy facility or the commercial solar energy facility and (ii) the reasonable cost of repairing roads used by the facility owner during construction of the commercial wind energy facility or the commercial solar energy facility so that those roads are in a condition that is safe for the driving public after the completion of the facility's construction. Roadways improved in preparation for and during the construction of the commercial wind energy facility or commercial solar energy facility shall be repaired and restored to the improved condition at the reasonable cost of the developer if the roadways have degraded or were damaged as a result of construction-related activities.

The road use agreement shall not require the facility owner to pay costs, fees, or charges for road work that is not

specifically and uniquely attributable to the construction of the commercial wind energy facility or the commercial solar energy facility. Road-related fees, permit fees, or other charges imposed by the Illinois Department of Transportation, a road district, or other unit of local government under a road use agreement with the facility owner shall be reasonably related to the cost of administration of the road use agreement.

(s-5) The facility owner shall also compensate landowners for crop losses or other agricultural damages resulting from damage to the drainage system caused by the construction of the commercial wind energy facility or the commercial solar energy facility. The commercial wind energy facility owner or commercial solar energy facility owner shall repair or pay for the repair of all damage to the subsurface drainage system caused by the construction of the commercial wind energy facility or the commercial solar energy facility in accordance with the agriculture impact mitigation agreement requirements for repair of drainage. The commercial wind energy facility owner or commercial solar energy facility owner shall repair or pay for the repair and restoration of surface drainage caused by the construction or deconstruction of the commercial wind energy facility or the commercial solar energy facility as soon as reasonably practicable.

(t) Notwithstanding any other provision of law, a facility owner with siting approval from a county to construct a

commercial wind energy facility or a commercial solar energy facility is authorized to cross or impact a drainage system, including, but not limited to, drainage tiles, open drainage ditches, culverts, and water gathering vaults, owned or under the control of a drainage district under the Illinois Drainage Code without obtaining prior agreement or approval from the drainage district in accordance with the farmland drainage plan required by subsection (j-5).

(u) The amendments to this Section adopted in Public Act 102-1123 do not apply to: (1) an application for siting approval or for a special use permit for a commercial wind energy facility or commercial solar energy facility if the application was submitted to a unit of local government before January 27, 2023 (the effective date of Public Act 102-1123); (2) a commercial wind energy facility or a commercial solar energy facility if the facility owner has submitted an agricultural impact mitigation agreement to the Department of Agriculture before January 27, 2023 (the effective date of Public Act 102-1123); or (3) a commercial wind energy or commercial solar energy development on property that is located within an enterprise zone certified under the Illinois Enterprise Zone Act, that was classified as industrial by the appropriate zoning authority on or before January 27, 2023, and that is located within 4 miles of the intersection of Interstate 88 and Interstate 39.

(Source: P.A. 103-81, eff. 6-9-23; 103-580, eff. 12-8-23;

104-417, eff. 8-15-25.)

(Text of Section after amendment by P.A. 104-458)

Sec. 5-12020. Commercial wind energy facilities and commercial solar energy facilities.

(a) As used in this Section:

"Commercial solar energy facility" means a "commercial solar energy system" as defined in Section 10-720 of the Property Tax Code. "Commercial solar energy facility" does not mean a utility-scale solar energy facility being constructed at a site that was eligible to participate in a procurement event conducted by the Illinois Power Agency pursuant to subsection (c-5) of Section 1-75 of the Illinois Power Agency Act.

"Commercial wind energy facility" means a wind energy conversion facility of equal or greater than 500 kilowatts in total nameplate generating capacity. "Commercial wind energy facility" includes a wind energy conversion facility seeking an extension of a permit to construct granted by a county or municipality before January 27, 2023 (the effective date of Public Act 102-1123).

"Facility owner" means (i) a person with a direct ownership interest in a commercial wind energy facility or a commercial solar energy facility, or both, regardless of whether the person is involved in acquiring the necessary rights, permits, and approvals or otherwise planning for the

construction and operation of the facility, and (ii) at the time the facility is being developed, a person who is acting as a developer of the facility by acquiring the necessary rights, permits, and approvals or by planning for the construction and operation of the facility, regardless of whether the person will own or operate the facility.

"Nonparticipating property" means real property that is not a participating property.

"Nonparticipating residence" means a residence that is located on nonparticipating property and that is existing and occupied on the date that an application for a permit to develop the commercial wind energy facility or the commercial solar energy facility is filed with the county.

"Occupied community building" means any one or more of the following buildings that is existing and occupied on the date that the application for a permit to develop the commercial wind energy facility or the commercial solar energy facility is filed with the county: a school, place of worship, day care facility, public library, or community center.

"Participating property" means real property that is the subject of a written agreement between a facility owner and the owner of the real property that provides the facility owner an easement, option, lease, or license to use the real property for the purpose of constructing a commercial wind energy facility, a commercial solar energy facility, or supporting facilities. "Participating property" also includes

real property that is owned by a facility owner for the purpose of constructing a commercial wind energy facility, a commercial solar energy facility, or supporting facilities.

"Participating residence" means a residence that is located on participating property and that is existing and occupied on the date that an application for a permit to develop the commercial wind energy facility or the commercial solar energy facility is filed with the county.

"Protected lands" means real property that is:

(1) subject to a permanent conservation right consistent with the Real Property Conservation Rights Act; or

(2) registered or designated as a nature preserve, buffer, or land and water reserve under the Illinois Natural Areas Preservation Act.

"Supporting facilities" means the transmission lines, substations, access roads, meteorological towers, storage containers, and equipment associated with the generation and storage of electricity by the commercial wind energy facility or commercial solar energy facility. "Supporting facilities" includes energy storage systems capable of absorbing energy and storing it for use at a later time, including, but not limited to, batteries and other electrochemical and electromechanical technologies or systems.

"Wind tower" includes the wind turbine tower, nacelle, and blades.

(b) Notwithstanding any other provision of law or whether the county has formed a zoning commission and adopted formal zoning under Section 5-12007, a county may establish standards for commercial wind energy facilities, commercial solar energy facilities, or both. The standards may include all of the requirements specified in this Section but may not include requirements for commercial wind energy facilities or commercial solar energy facilities that are more restrictive than specified in this Section or requirements specified in other laws. A county may also regulate the siting of commercial wind energy facilities with standards that are not more restrictive than the requirements specified in this Section or requirements specified in other laws in unincorporated areas of the county that are outside the zoning jurisdiction of a municipality and that are outside the 1.5-mile radius surrounding the zoning jurisdiction of a municipality. A county may also regulate the siting of commercial solar energy facilities with standards that are not more restrictive than the requirements specified in this Section or requirements specified in other laws in unincorporated areas of the county that are outside of the zoning jurisdiction of a municipality.

(c) If a county has elected to establish standards under subsection (b), before the county grants siting approval or a special use permit for a commercial wind energy facility or a commercial solar energy facility, or modification of an

approved siting or special use permit, the county board of the county in which the facility is to be sited or the zoning board of appeals for the county shall hold at least one public hearing. The public hearing shall be conducted in accordance with the Open Meetings Act and shall conclude not more than 60 days after the filing of the application for the facility. The county shall allow interested parties to a special use permit an opportunity to present evidence and to cross-examine witnesses at the hearing, but the county may impose reasonable restrictions on the public hearing, including reasonable time limitations on the presentation of evidence and the cross-examination of witnesses. The county shall also allow public comment at the public hearing in accordance with the Open Meetings Act. The county shall make its siting and permitting decisions not more than 30 days after the conclusion of the public hearing. Notice of the hearing shall be published in a newspaper of general circulation in the county. A facility owner must enter into an agricultural impact mitigation agreement with the Department of Agriculture prior to the date of the required public hearing. A commercial wind energy facility owner seeking an extension of a permit granted by a county prior to July 24, 2015 (the effective date of Public Act 99-132) must enter into an agricultural impact mitigation agreement with the Department of Agriculture prior to a decision by the county to grant the permit extension. Counties may allow test wind towers or test solar energy

systems to be sited without formal approval by the county board.

(d) A county with an existing zoning ordinance in conflict with this Section shall amend that zoning ordinance to be in compliance with this Section within 120 days after January 27, 2023 (the effective date of Public Act 102-1123).

(e) A county may require:

(1) a wind tower of a commercial wind energy facility to be sited as follows, with setback distances measured from the center of the base of the wind tower:

Setback Description	Setback Distance
Occupied Community Buildings	2.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure
Participating Residences	1.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure
Nonparticipating Residences	2.1 times the maximum blade tip height of the wind tower to the nearest point on the outside

	wall of the structure
Boundary Lines of Participating Property	None
Boundary Lines of Nonparticipating Property	1.1 times the maximum blade tip height of the wind tower to the nearest point on the property line of the nonparticipating property
Public Road Rights-of-Way	1.1 times the maximum blade tip height of the wind tower to the center point of the public road right-of-way
Overhead Communication and Electric Transmission and Distribution Facilities (Not Including Overhead Utility Service Lines to Individual Houses or Outbuildings)	1.1 times the maximum blade tip height of the wind tower to the nearest edge of the property line, easement, or right-of-way containing the overhead line
Overhead Utility Service Lines to Individual	None

Houses or Outbuildings

Fish and Wildlife Areas and Illinois Nature Preserve Commission Protected Lands	2.1 times the maximum blade tip height of the wind tower to the nearest point on the property line of the fish and wildlife area or protected land

This Section does not exempt or excuse compliance with electric facility clearances approved or required by the National Electrical Code, the National Electrical Safety Code, the Illinois Commerce Commission, and the Federal Energy Regulatory Commission and their designees or successors;

(2) a wind tower of a commercial wind energy facility to be sited so that industry standard computer modeling indicates that any occupied community building or nonparticipating residence will not experience more than 30 hours per year of shadow flicker under planned operating conditions;

(3) a commercial solar energy facility to be sited as follows, with setback distances measured from the nearest edge of any above-ground component of the facility, excluding fencing:

Setback Description	Setback Distance

Occupied Community Buildings and Dwellings on Nonparticipating Properties	150 feet from the nearest point on the outside wall of the structure
Boundary Lines of Participating Property	None
Public Road Rights-of-Way	50 feet from the nearest edge of the public right-of-way
Boundary Lines of Nonparticipating Property	50 feet to the nearest point on the property line of the nonparticipating property

(4) a commercial solar energy facility to be sited so that the facility's perimeter is enclosed by fencing having a height of at least 6 feet and no more than 25 feet; and

(5) a commercial solar energy facility to be sited so that no component of a solar panel has a height of more than 20 feet above ground when the solar energy facility's arrays are at full tilt.

This subsection (e) shall not preclude the ability of a

county to require a reasonable setback distance not to exceed 50 feet between fencing and public rights-of-way if the requirement is not specific to commercial wind energy facilities or commercial solar energy facilities and does not preclude the development of commercial wind energy facilities or commercial solar energy facilities or the ability of commercial wind energy facilities or commercial solar energy facilities to comply with the requirements set forth in this subsection (e).

The requirements set forth in this subsection (e) may be waived subject to the written consent of the owner of each affected nonparticipating property.

(f) A county may not set a sound limitation for wind towers in commercial wind energy facilities or any components in commercial solar energy facilities that is more restrictive than the sound limitations established by the Illinois Pollution Control Board under 35 Ill. Adm. Code Parts 900, 901, and 910. Additionally, in accordance with Section 25 of the Environmental Protection Act, a participating property, participating residence, nonparticipating property, nonparticipating residence, or any combination of those properties or residences may waive enforcement of the rules adopted by the Illinois Pollution Control Board under 35 Ill. Adm. Code Parts 900, 901, and 910 by written waiver that complies with the applicable directive established in Section 25 of the Environmental Protection Act and is recorded in the

Office of the Recorder of the county in which the participating property, participating residence, nonparticipating property, or nonparticipating residence is located. Once recorded, such a waiver shall be binding on any current and future owners, residents, lessees, invitees, and users of the participating property, participating residence, nonparticipating property, or nonparticipating residence for enforcement purposes. An owner of any participating residence or nonparticipating residence shall disclose the existence of such a waiver to any lessee before entering any new lease for the residence.

A seller or transferor of a participating property, participating residence, nonparticipating property, nonparticipating residence, or any combination of those properties or residences shall disclose the existence of such a waiver to any buyer or transferee before any sale or transfer of the property. If disclosure of the waiver occurs after the buyer has made an offer to purchase the property, the seller shall disclose the existence of the waiver before accepting the buyer's offer and shall (1) allow the buyer an opportunity to review the disclosure and (2) inform the buyer that the buyer has the right to amend the buyer's offer.

(g) A county may not place any restriction on the installation or use of a commercial wind energy facility or a commercial solar energy facility unless it adopts an ordinance that complies with this Section. A county may not establish

siting standards for supporting facilities that preclude development of commercial wind energy facilities or commercial solar energy facilities.

A request for siting approval or a special use permit for a commercial wind energy facility or a commercial solar energy facility, or modification of an approved siting or special use permit, shall be approved if the request is in compliance with the standards and conditions imposed in this Act, the zoning ordinance adopted consistent with this Act, and the conditions imposed under State and federal statutes and regulations.

(h) A county may not adopt zoning regulations that disallow, permanently or temporarily, commercial wind energy facilities or commercial solar energy facilities from being developed or operated in any district zoned to allow agricultural or industrial uses.

(i) (Blank).

(i-5) All siting approval or special use permit application fees for a commercial wind energy facility or commercial solar energy facility must be reasonable. Fees that do not exceed $5,000 per each megawatt of nameplate capacity of the energy facility, up to a maximum of $125,000, shall be considered presumptively reasonable. A county may also require reimbursement from the applicant for any reasonable expenses incurred by the county in processing the siting approval or special use permit application in excess of the maximum fee. A siting approval or special use permit shall not be subject to

any time deadline to start construction or obtain a building permit of less than 5 years from the date of siting approval or special use permit approval. A county shall allow an applicant to request an extension of the deadline based upon reasonable cause for the extension request. The exemption shall not be unreasonably withheld, conditioned, or denied.

(i-10) A county may require, for a commercial wind energy facility or commercial solar energy facility, a single building permit and a reasonable permit fee for the facility which includes all supporting facilities. County building permit fees for commercial wind energy facility or commercial solar energy facility that do not exceed $5,000 per each megawatt of nameplate capacity of the energy facility, up to a maximum of $75,000, shall be considered presumptively reasonable. A county may also require reimbursement from the applicant for any reasonable expenses incurred by the county in processing the building permit in excess of the maximum fee. A county may require an applicant, upon start of construction of the facility, to maintain liability insurance that is commercially reasonable and consistent with prevailing industry standards for similar energy facilities.

(j) Except as otherwise provided in this Section, a county shall not require standards for construction, decommissioning, or deconstruction of a commercial wind energy facility or commercial solar energy facility or related financial assurances that are more restrictive than those included in

the Department of Agriculture's standard wind farm agricultural impact mitigation agreement, template 81818, or standard solar agricultural impact mitigation agreement, version 8.19.19, as applicable and in effect on December 31, 2022. The amount of any decommissioning payment shall be in accordance with the financial assurance required by those agricultural impact mitigation agreements.

(j-5) A commercial wind energy facility or a commercial solar energy facility shall file a farmland drainage plan with the county and impacted drainage districts outlining how surface and subsurface drainage of farmland will be restored during and following construction or deconstruction of the facility. The plan is to be created independently by the facility developer and shall include the location of any potentially impacted drainage district facilities to the extent this information is publicly available from the county or the drainage district, plans to repair any subsurface drainage affected during construction or deconstruction using procedures outlined in the agricultural impact mitigation agreement entered into by the commercial wind energy facility owner or commercial solar energy facility owner, and procedures for the repair and restoration of surface drainage affected during construction or deconstruction. All surface and subsurface damage shall be repaired as soon as reasonably practicable.

(k) A county may not condition approval of a commercial

wind energy facility or commercial solar energy facility on a property value guarantee and may not require a facility owner to pay into a neighboring property devaluation escrow account.

(l) A county may require certain vegetative screening between a commercial solar energy facility and nonparticipating residences. A county may not require earthen berms or similar structures. Vegetative screening requirements shall be commercially reasonable and limited in height at full maturity to avoid reduction of the productive energy output of the commercial solar energy facility. A county may not require vegetative screening to exceed 5 feet in height when first installed or prior to commercial operation date. The screening requirements shall take into account the size and location of the facility, visibility from nonparticipating residences, compatibility of native plant species, cost and feasibility of installation and maintenance, and industry standards and best practices for commercial solar energy facilities.

(m) A county may set blade tip height limitations for wind towers in commercial wind energy facilities but may not set a blade tip height limitation that is more restrictive than the height allowed under a Determination of No Hazard to Air Navigation by the Federal Aviation Administration under 14 CFR Part 77.

(n) A county may require that a commercial wind energy facility owner or commercial solar energy facility owner provide:

(1) the results and recommendations from consultation with the Illinois Department of Natural Resources that are obtained through the Ecological Compliance Assessment Tool (EcoCAT) or a comparable successor tool; and

(2) (blank).

(o) A county may require a commercial wind energy facility or commercial solar energy facility to adhere to the recommendations provided by the Illinois Department of Natural Resources in an EcoCAT natural resource review report under 17 Ill. Adm. Code Part 1075.

(p) A county may require a facility owner to:

(1) demonstrate avoidance of protected lands as identified by the Illinois Department of Natural Resources and the Illinois Nature Preserve Commission; or

(2) consider the recommendations of the Illinois Department of Natural Resources for setbacks from protected lands, including areas identified by the Illinois Nature Preserve Commission.

(q) A county may require that a facility owner provide evidence of consultation with the Illinois State Historic Preservation Office to assess potential impacts on State-registered historic sites under the Illinois State Agency Historic Resources Preservation Act.

(r) To maximize community benefits, including, but not limited to, reduced stormwater runoff, flooding, and erosion at the ground mounted solar energy system, improved soil

health, and increased foraging habitat for game birds, songbirds, and pollinators, a county may (1) require a commercial solar energy facility owner to plant, establish, and maintain for the life of the facility vegetative ground cover, consistent with the goals of the Pollinator-Friendly Solar Site Act and (2) require the submittal of a vegetation management plan that is in compliance with the agricultural impact mitigation agreement in the application to construct and operate a commercial solar energy facility in the county if the vegetative ground cover and vegetation management plan comply with the requirements of the underlying agreement with the landowner or landowners where the facility will be constructed.

No later than 90 days after January 27, 2023 (the effective date of Public Act 102-1123), the Illinois Department of Natural Resources shall develop guidelines for vegetation management plans that may be required under this subsection for commercial solar energy facilities. The guidelines must include guidance for short-term and long-term property management practices that provide and maintain native and non-invasive naturalized perennial vegetation to protect the health and well-being of pollinators.

(s) If a facility owner enters into a road use agreement with the Illinois Department of Transportation, a road district, or other unit of local government relating to a commercial wind energy facility or a commercial solar energy

facility, the road use agreement shall require the facility owner to be responsible for (i) the reasonable cost of improving roads used by the facility owner to construct the commercial wind energy facility or the commercial solar energy facility and (ii) the reasonable cost of repairing roads used by the facility owner during construction of the commercial wind energy facility or the commercial solar energy facility so that those roads are in a condition that is safe for the driving public after the completion of the facility's construction. Roadways improved in preparation for and during the construction of the commercial wind energy facility or commercial solar energy facility shall be repaired and restored to the improved condition at the reasonable cost of the developer if the roadways have degraded or were damaged as a result of construction-related activities.

The road use agreement shall not require the facility owner to pay costs, fees, or charges for road work that is not specifically and uniquely attributable to the construction of the commercial wind energy facility or the commercial solar energy facility. No road district or other unit of local government may request or require permit fees, fines, or other payment obligations as a requirement for a road use agreement with a facility owner unless the amount of the reasonable permit fee or payment is equivalent to the amount of actual expenses incurred by the road district or other unit of local government for negotiating, executing, constructing, or

implementing the road use agreement. The road use agreement shall not require any road work to be performed by or paid for by the facility owner that is not specifically and uniquely attributable to the road improvements required for the construction of the commercial wind energy facility or the commercial solar energy facility or the restoration of the roads used by the facility owner during construction-related activities.

(s-5) The facility owner shall also compensate landowners for crop losses or other agricultural damages resulting from damage to the drainage system caused by the construction of the commercial wind energy facility or the commercial solar energy facility. The commercial wind energy facility owner or commercial solar energy facility owner shall repair or pay for the repair of all damage to the subsurface drainage system caused by the construction of the commercial wind energy facility or the commercial solar energy facility in accordance with the agriculture impact mitigation agreement requirements for repair of drainage. The commercial wind energy facility owner or commercial solar energy facility owner shall repair or pay for the repair and restoration of surface drainage caused by the construction or deconstruction of the commercial wind energy facility or the commercial solar energy facility as soon as reasonably practicable.

(t) Notwithstanding any other provision of law, a facility owner with siting approval from a county to construct a

commercial wind energy facility or a commercial solar energy facility is authorized to cross or impact a drainage system, including, but not limited to, drainage tiles, open drainage ditches, culverts, and water gathering vaults, owned or under the control of a drainage district under the Illinois Drainage Code without obtaining prior agreement or approval from the drainage district in accordance with the farmland drainage plan required by subsection (j-5).

(u) The amendments to this Section adopted in Public Act 102-1123 do not apply to: (1) an application for siting approval or for a special use permit for a commercial wind energy facility or commercial solar energy facility if the application was submitted to a unit of local government before January 27, 2023 (the effective date of Public Act 102-1123); (2) a commercial wind energy facility or a commercial solar energy facility if the facility owner has submitted an agricultural impact mitigation agreement to the Department of Agriculture before January 27, 2023 (the effective date of Public Act 102-1123); (3) a commercial wind energy or commercial solar energy development on property that is located within an enterprise zone certified under the Illinois Enterprise Zone Act, that was classified as industrial by the appropriate zoning authority on or before January 27, 2023, and that is located within 4 miles of the intersection of Interstate 88 and Interstate 39; or (4) a commercial wind energy or commercial solar energy development on property in

Madison County that is located within the area that has as its northern boundary the portion of Drexelius Road that is between the intersection of Drexelius Road and Wolf Road and the intersection of Drexelius Road and Fosterburg Road, that has as its eastern boundary the portion of Fosterburg Road that is between the intersection of Fosterburg Road and Drexelius Road and the intersection of Fosterburg Road and Wolf Road, and that has as its southern and western boundaries the portion of Wolf Road that is between the intersection of Fosterburg Road and Wolf Road and the intersection of Drexelius Road and Wolf Road.

(v) The changes to subsection (b) made by this amendatory Act of the 104th General Assembly are declarative of existing law.

(Source: P.A. 103-81, eff. 6-9-23; 103-580, eff. 12-8-23; 104-417, eff. 8-15-25; 104-458, eff. 6-1-26.)

Section 15. The Public Utilities Act is amended by changing Sections 16-107.6, 16-107.9, 20-140, and 23-115 as follows:

(220 ILCS 5/16-107.6)

(Text of Section before amendment by P.A. 104-458)

Sec. 16-107.6. Distributed generation rebate.

(a) In this Section:

"Additive services" means the services that distributed

energy resources provide to the energy system and society that are not (1) already included in the base rebates for system-wide grid services; or (2) otherwise already compensated. Additive services may reflect, but shall not be limited to, any geographic, time-based, performance-based, and other benefits of distributed energy resources, as well as the present and future technological capabilities of distributed energy resources and present and future grid needs.

"Distributed energy resource" means a wide range of technologies that are located on the customer side of the customer's electric meter, including, but not limited to, distributed generation, energy storage, electric vehicles, and demand response technologies.

"Energy storage system" means commercially available technology that is capable of absorbing energy and storing it for a period of time for use at a later time, including, but not limited to, electrochemical, thermal, and electromechanical technologies, and may be interconnected behind the customer's meter or interconnected behind its own meter.

"Smart inverter" means a device that converts direct current into alternating current and meets the IEEE 1547-2018 equipment standards. Until devices that meet the IEEE 1547-2018 standard are available, devices that meet the UL 1741 SA standard are acceptable.

"Subscriber" has the meaning set forth in Section 1-10 of

the Illinois Power Agency Act.

"Subscription" has the meaning set forth in Section 1-10 of the Illinois Power Agency Act.

"System-wide grid services" means the benefits that a distributed energy resource provides to the distribution grid for a period of no less than 25 years. System-wide grid services do not vary by location, time, or the performance characteristics of the distributed energy resource. System-wide grid services include, but are not limited to, avoided or deferred distribution capacity costs, resilience and reliability benefits, avoided or deferred distribution operation and maintenance costs, distribution voltage and power quality benefits, and line loss reductions.

"Threshold date" means December 31, 2024 or the date on which the utility's tariff or tariffs setting the new compensation values established under subsection (e) take effect, whichever is later.

(b) An electric utility that serves more than 200,000 customers in the State shall file a petition with the Commission requesting approval of the utility's tariff to provide a rebate to the owner or operator of distributed generation, including third-party owned systems, that meets the following criteria:

(1) has a nameplate generating capacity no greater than 5,000 kilowatts and is primarily used to offset a customer's electricity load;

(2) is located on the customer's side of the billing meter and for the customer's own use;

(3) is interconnected to electric distribution facilities owned by the electric utility under rules adopted by the Commission by means of one or more inverters or smart inverters required by this Section, as applicable.

For purposes of this Section, "distributed generation" shall satisfy the definition of distributed renewable energy generation device set forth in Section 1-10 of the Illinois Power Agency Act to the extent such definition is consistent with the requirements of this Section.

In addition, any new photovoltaic distributed generation that is installed after June 1, 2017 (the effective date of Public Act 99-906) must be installed by a qualified person, as defined by subsection (i) of Section 1-56 of the Illinois Power Agency Act.

The tariff shall include a base rebate that compensates distributed generation for the system-wide grid services associated with distributed generation and, after the proceeding described in subsection (e) of this Section, an additional payment or payments for the additive services. The tariff shall provide that the smart inverter or smart inverters associated with the distributed generation shall provide autonomous response to grid conditions through its default settings as approved by the Commission. Default

settings may not be changed after the execution of the interconnection agreement except by mutual agreement between the utility and the owner or operator of the distributed generation. Nothing in this Section shall negate or supersede Institute of Electrical and Electronics Engineers equipment standards or other similar standards or requirements. The tariff shall not limit the ability of the smart inverter or smart inverters or other distributed energy resource to provide wholesale market products such as regulation, demand response, or other services, or limit the ability of the owner of the smart inverter or the other distributed energy resource to receive compensation for providing those wholesale market products or services.

(b-5) Within 30 days after the effective date of this amendatory Act of the 102nd General Assembly, each electric public utility with 3,000,000 or more retail customers shall file a tariff with the Commission that further compensates any retail customer that installs or has installed photovoltaic facilities paired with energy storage facilities on or adjacent to its premises for the benefits the facilities provide to the distribution grid. The tariff shall provide that, in addition to the other rebates identified in this Section, the electric utility shall rebate to such retail customer (i) the previously incurred and future costs of installing interconnection facilities and related infrastructure to enable full participation in the PJM

Interconnection, LLC or its successor organization frequency regulation market; and (ii) all wholesale demand charges incurred after the effective date of this amendatory Act of the 102nd General Assembly. The Commission shall approve, or approve with modification, the tariff within 120 days after the utility's filing.

(c) The proposed tariff authorized by subsection (b) of this Section shall include the following participation terms for rebates to be applied under this Section for distributed generation that satisfies the criteria set forth in subsection (b) of this Section:

(1) The owner or operator of distributed generation that services customers not eligible for net metering under subsection (d), (d-5), or (e) of Section 16-107.5 of this Act may apply for a rebate as provided for in this Section. Until the threshold date, the value of the rebate shall be $250 per kilowatt of nameplate generating capacity, measured as nominal DC power output, of that customer's distributed generation. To the extent the distributed generation also has an associated energy storage, then the energy storage system shall be separately compensated with a base rebate of $250 per kilowatt-hour of nameplate capacity. Any distributed generation device that is compensated for storage in this subsection (1) before the threshold date shall participate in one or more programs determined through the Multi-Year

Integrated Grid Planning process that are designed to meet peak reduction and flexibility. After the threshold date, the value of the base rebate and additional compensation for any additive services shall be as determined by the Commission in the proceeding described in subsection (e) of this Section, provided that the value of the base rebate for system-wide grid services shall not be lower than $250 per kilowatt of nameplate generating capacity of distributed generation or community renewable generation project.

(2) The owner or operator of distributed generation that, before the threshold date, would have been eligible for net metering under subsection (d), (d-5), or (e) of Section 16-107.5 of this Act and that has not previously received a distributed generation rebate, may apply for a rebate as provided for in this Section. Until the threshold date, the value of the base rebate shall be $300 per kilowatt of nameplate generating capacity, measured as nominal DC power output, of the distributed generation. The owner or operator of distributed generation that, before the threshold date, is eligible for net metering under subsection (d), (d-5), or (e) of Section 16-107.5 of this Act may apply for a base rebate for an associated energy storage device behind the same retail customer meter as the distributed generation, regardless of whether the distributed generation applies for a rebate for the

distributed generation device. The energy storage system shall be separately compensated at a base payment of $300 per kilowatt-hour of nameplate capacity. Any distributed generation device that is compensated for storage in this subsection (2) before the threshold date shall participate in a peak time rebate program, hourly pricing program, or time-of-use rate program offered by the applicable electric utility. After the threshold date, the value of the base rebate and additional compensation for any additive services shall be as determined by the Commission in the proceeding described in subsection (e) of this Section, provided that, prior to December 31, 2029, the value of the base rebate for system-wide services shall not be lower than $300 per kilowatt of nameplate generating capacity of distributed generation, after which it shall not be lower than $250 per kilowatt of nameplate capacity. The eligibility of energy storage devices that are interconnected behind the same retail customer meter as the distributed generation shall not be limited to energy storage devices interconnected after the effective date of this amendatory Act of the 103rd General Assembly. To the extent that an electric utility's tariffs are inconsistent with the requirements of this paragraph (2) as modified by this amendatory Act of the 103rd General Assembly, such electric utility shall, within 30 days, file modified tariffs consistent with the requirements of

this paragraph (2).

(3) Upon approval of a rebate application submitted under this subsection (c), the retail customer shall no longer be entitled to receive any delivery service credits for the excess electricity generated by its facility and shall be subject to the provisions of subsection (n) of Section 16-107.5 of this Act unless the owner or operator receives a rebate only for an energy storage device and not for the distributed generation device.

(4) To be eligible for a rebate described in this subsection (c), the owner or operator of the distributed generation must have a smart inverter installed and in operation on the distributed generation.

(d) The Commission shall review the proposed tariff authorized by subsection (b) of this Section and may make changes to the tariff that are consistent with this Section and with the Commission's authority under Article IX of this Act, subject to notice and hearing. Following notice and hearing, the Commission shall issue an order approving, or approving with modification, such tariff no later than 240 days after the utility files its tariff. Upon the effective date of this amendatory Act of the 102nd General Assembly, an electric utility shall file a petition with the Commission to amend and update any existing tariffs to comply with subsections (b) and (c).

(e) By no later than June 30, 2023, the Commission shall

open an independent, statewide investigation into the value of, and compensation for, distributed energy resources. The Commission shall conduct the investigation, but may arrange for experts or consultants independent of the utilities and selected by the Commission to assist with the investigation. The cost of the investigation shall be shared by the utilities filing tariffs under subsection (b) of this Section but may be recovered as an expense through normal ratemaking procedures.

(1) The Commission shall ensure that the investigation includes, at minimum, diverse sets of stakeholders; a review of best practices in calculating the value of distributed energy resource benefits; a review of the full value of the distributed energy resources and the manner in which each component of that value is or is not otherwise compensated; and assessments of how the value of distributed energy resources may evolve based on the present and future technological capabilities of distributed energy resources and based on present and future grid needs.

(2) The Commission's final order concluding this investigation shall establish an annual process and formula for the compensation of distributed generation and energy storage systems, and an initial set of inputs for that formula. The Commission's final order concluding this investigation shall establish base rebates that compensate distributed generation, community renewable generation

projects and energy storage systems for the system-wide grid services that they provide. Those base rebate values shall be consistent across the state, and shall not vary by customer, customer class, customer location, or any other variable. With respect to rebates for distributed generation or community renewable generation projects, that rebate shall not be lower than $250 per kilowatt of nameplate generating capacity of the distributed generation or community renewable generation project. The Commission's final order concluding this proceeding shall also direct the utilities to update the formula, on an annual basis, with inputs derived from their integrated grid plans developed pursuant to Section 16-105.17. The base rebate shall be updated annually based on the annual updates to the formula inputs, but, with respect to rebates for distributed generation or community renewable generation projects, shall be no lower than $250 per kilowatt of nameplate generating capacity of the distributed generation or community renewable generation project.

(3) The Commission shall also determine, as a part of its investigation under this subsection, whether distributed energy resources can provide any additive services. Those additive services may include services that are provided through utility-controlled responses to grid conditions. If the Commission determines that

distributed energy resources can provide additive grid services, the Commission shall determine the terms and conditions for the operation and compensation of those services. That compensation shall be above and beyond the base rebate that the distributed energy generation, community renewable generation project and energy storage system receives. Compensation for additive services may vary by location, time, performance characteristics, technology types, or other variables.

(4) The Commission shall ensure that compensation for distributed energy resources, including base rebates and any payments for additive services, shall reflect all reasonably known and measurable values of the distributed generation over its full expected useful life. Compensation for additive services shall reflect, but shall not be limited to, any geographic, time-based, performance-based, and other benefits of distributed generation, as well as the present and future technological capabilities of distributed energy resources and present and future grid needs.

(5) The Commission shall consider the electric utility's integrated grid plan developed pursuant to Section 16-105.17 of this Act to help identify the value of distributed energy resources for the purpose of calculating the compensation described in this subsection.

(6) The Commission shall determine additional

compensation for distributed energy resources that creates savings and value on the distribution system by being co-located or in close proximity to electric vehicle charging infrastructure in use by medium-duty and heavy-duty vehicles, primarily serving environmental justice communities, as outlined in the utility integrated grid planning process under Section 16-105.17 of this Act.

No later than 60 days after the Commission enters its final order under this subsection (e), each utility shall file its updated tariff or tariffs in compliance with the order, including new tariffs for the recovery of costs incurred under this subsection (e) that shall provide for volumetric-based cost recovery, and the Commission shall approve, or approve with modification, the tariff or tariffs within 240 days after the utility's filing.

(f) Notwithstanding any provision of this Act to the contrary, the owner or operator of a community renewable generation project as defined in Section 1-10 of the Illinois Power Agency Act shall also be eligible to apply for the rebate described in this Section. The owner or operator of the community renewable generation project may apply for a rebate only if the owner or operator, or previous owner or operator, of the community renewable generation project has not already submitted an application, and, regardless of whether the subscriber is a residential or non-residential customer, may be allowed the amount identified in paragraph (1) of

subsection (c) applicable on the date that the application is submitted.

(g) The owner of the distributed generation or community renewable generation project may apply for the rebate or rebates approved under this Section at the time of execution of an interconnection agreement with the distribution utility and shall receive the value available at that time of execution of the interconnection agreement, provided the project reaches mechanical completion within 24 months after execution of the interconnection agreement. If the project has not reached mechanical completion within 24 months after execution, the owner may reapply for the rebate or rebates approved under this Section available at the time of application and shall receive the value available at the time of application. The utility shall issue the rebate no later than 60 days after the project is energized. In the event the application is incomplete or the utility is otherwise unable to calculate the payment based on the information provided by the owner, the utility shall issue the payment no later than 60 days after the application is complete or all requested information is received.

(h) An electric utility shall recover from its retail customers all of the costs of the rebates made under a tariff or tariffs approved under subsection (d) of this Section, including, but not limited to, the value of the rebates and all costs incurred by the utility to comply with and implement

subsections (b) and (c) of this Section, but not including costs incurred by the utility to comply with and implement subsection (e) of this Section, consistent with the following provisions:

(1) The utility shall defer the full amount of its costs as a regulatory asset. The total costs deferred as a regulatory asset shall be amortized over a 15-year period. The unamortized balance shall be recognized as of December 31 for a given year. The utility shall also earn a return on the total of the unamortized balance of the regulatory assets, less any deferred taxes related to the unamortized balance, at an annual rate equal to the utility's weighted average cost of capital that includes, based on a year-end capital structure, the utility's actual cost of debt for the applicable calendar year and a cost of equity, which shall be calculated as the sum of (i) the average for the applicable calendar year of the monthly average yields of 30-year U.S. Treasury bonds published by the Board of Governors of the Federal Reserve System in its weekly H.15 Statistical Release or successor publication; and (ii) 580 basis points, including a revenue conversion factor calculated to recover or refund all additional income taxes that may be payable or receivable as a result of that return.

When an electric utility creates a regulatory asset under the provisions of this paragraph (1) of subsection

(h), the costs are recovered over a period during which customers also receive a benefit, which is in the public interest. Accordingly, it is the intent of the General Assembly that an electric utility that elects to create a regulatory asset under the provisions of this paragraph (1) shall recover all of the associated costs, including, but not limited to, its cost of capital as set forth in this paragraph (1). After the Commission has approved the prudence and reasonableness of the costs that comprise the regulatory asset, the electric utility shall be permitted to recover all such costs, and the value and recoverability through rates of the associated regulatory asset shall not be limited, altered, impaired, or reduced. To enable the financing of the incremental capital expenditures, including regulatory assets, for electric utilities that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State, the utility's actual year-end capital structure that includes a common equity ratio, excluding goodwill, of up to and including 50% of the total capital structure shall be deemed reasonable and used to set rates.

(2) The utility, at its election, may recover all of the costs as part of a filing for a general increase in rates under Article IX of this Act, as part of an annual filing to update a performance-based formula rate under subsection (d) of Section 16-108.5 of this Act, or through

an automatic adjustment clause tariff, provided that nothing in this paragraph (2) permits the double recovery of such costs from customers. If the utility elects to recover the costs it incurs under subsections (b) and (c) through an automatic adjustment clause tariff, the utility may file its proposed tariff together with the tariff it files under subsection (b) of this Section or at a later time. The proposed tariff shall provide for an annual reconciliation, less any deferred taxes related to the reconciliation, with interest at an annual rate of return equal to the utility's weighted average cost of capital as calculated under paragraph (1) of this subsection (h), including a revenue conversion factor calculated to recover or refund all additional income taxes that may be payable or receivable as a result of that return, of the revenue requirement reflected in rates for each calendar year, beginning with the calendar year in which the utility files its automatic adjustment clause tariff under this subsection (h), with what the revenue requirement would have been had the actual cost information for the applicable calendar year been available at the filing date. The Commission shall review the proposed tariff and may make changes to the tariff that are consistent with this Section and with the Commission's authority under Article IX of this Act, subject to notice and hearing. Following notice and hearing, the Commission shall issue

an order approving, or approving with modification, such tariff no later than 240 days after the utility files its tariff.

(i) An electric utility shall recover from its retail customers, on a volumetric basis, all of the costs of the rebates made under a tariff or tariffs placed into effect under subsection (e) of this Section, including, but not limited to, the value of the rebates and all costs incurred by the utility to comply with and implement subsection (e) of this Section, consistent with the following provisions:

(1) The utility may defer a portion of its costs as a regulatory asset. The Commission shall determine the portion that may be appropriately deferred as a regulatory asset. Factors that the Commission shall consider in determining the portion of costs that shall be deferred as a regulatory asset include, but are not limited to: (i) whether and the extent to which a cost effectively deferred or avoided other distribution system operating costs or capital expenditures; (ii) the extent to which a cost provides environmental benefits; (iii) the extent to which a cost improves system reliability or resilience; (iv) the electric utility's distribution system plan developed pursuant to Section 16-105.17 of this Act; (v) the extent to which a cost advances equity principles; and (vi) such other factors as the Commission deems appropriate. The remainder of costs shall be deemed an

operating expense and shall be recoverable if found prudent and reasonable by the Commission.

The total costs deferred as a regulatory asset shall be amortized over a 15-year period. The unamortized balance shall be recognized as of December 31 for a given year. The utility shall also earn a return on the total of the unamortized balance of the regulatory assets, less any deferred taxes related to the unamortized balance, at an annual rate equal to the utility's weighted average cost of capital that includes, based on a year-end capital structure, the utility's actual cost of debt for the applicable calendar year and a cost of equity, which shall be calculated as the sum of: (I) the average for the applicable calendar year of the monthly average yields of 30-year U.S. Treasury bonds published by the Board of Governors of the Federal Reserve System in its weekly H.15 Statistical Release or successor publication; and (II) 580 basis points, including a revenue conversion factor calculated to recover or refund all additional income taxes that may be payable or receivable as a result of that return.

(2) The utility may recover all of the costs through an automatic adjustment clause tariff, on a volumetric basis. The utility may file its proposed cost-recovery tariff together with the tariff it files under subsection (e) of this Section or at a later time. The proposed tariff

shall provide for an annual reconciliation, less any deferred taxes related to the reconciliation, with interest at an annual rate of return equal to the utility's weighted average cost of capital as calculated under paragraph (1) of this subsection (i), including a revenue conversion factor calculated to recover or refund all additional income taxes that may be payable or receivable as a result of that return, of the revenue requirement reflected in rates for each calendar year, beginning with the calendar year in which the utility files its automatic adjustment clause tariff under this subsection (i), with what the revenue requirement would have been had the actual cost information for the applicable calendar year been available at the filing date. The Commission shall review the proposed tariff and may make changes to the tariff that are consistent with this Section and with the Commission's authority under Article IX of this Act, subject to notice and hearing. Following notice and hearing, the Commission shall issue an order approving, or approving with modification, such tariff no later than 240 days after the utility files its tariff.

(j) No later than 90 days after the Commission enters an order, or order on rehearing, whichever is later, approving an electric utility's proposed tariff under this Section, the electric utility shall provide notice of the availability of

rebates under this Section.

(Source: P.A. 102-662, eff. 9-15-21; 102-1031, eff. 5-27-22; 103-1066, eff. 2-20-25.)

(Text of Section after amendment by P.A. 104-458)

Sec. 16-107.6. Distributed generation and storage rebate.

(a) In this Section:

"Additive services" means the services that distributed energy resources provide to the energy system and society that are described in Section 16-107.9.

"Distributed energy resource" means a wide range of technologies that are located on the customer side of the customer's electric meter, including, but not limited to, distributed generation, energy storage, electric vehicles, and demand response technologies.

"Distributed storage" means energy storage systems that are interconnected behind the customer's meter to the distribution system or interconnected behind the storage system's own meter to the distribution system.

"Energy storage system" means commercially available technology that is capable of absorbing energy and storing it for a period of time for use at a later time, including, but not limited to, electrochemical, thermal, and electromechanical technologies, and may be interconnected behind the customer's meter or interconnected behind its own meter.

"Smart inverter" means a device that converts direct current into alternating current and meets the IEEE 1547-2018 equipment standards. Until devices that meet the IEEE 1547-2018 standard are available, devices that meet the UL 1741 SA standard are acceptable.

"Subscriber" has the meaning set forth in Section 1-10 of the Illinois Power Agency Act.

"Subscription" has the meaning set forth in Section 1-10 of the Illinois Power Agency Act.

"System-wide grid services" means the benefits that a distributed energy resource provides to the distribution grid for a period of no less than 25 years. System-wide grid services do not vary by location, time, or the performance characteristics of the distributed energy resource. System-wide grid services include, but are not limited to, avoided or deferred distribution capacity costs, resilience and reliability benefits, avoided or deferred distribution operation and maintenance costs, distribution voltage and power quality benefits, and line loss reductions.

"Threshold date" means the date 2 years after the effective date of this amendatory Act of the 104th General Assembly or the date on which the utility's tariff or tariffs authorized by Section 16-107.9 take effect, whichever is later.

(b) An electric utility that serves more than 200,000 customers in the State shall file a petition with the

Commission requesting approval of the utility's tariff to provide a rebate to the owner or operator of distributed energy resources ~~generation~~, including third-party owned systems, that meets the following criteria:

(1) has a nameplate generating capacity no greater than 5,000 kilowatts and is primarily used to offset a customer's electricity load, or as otherwise as defined for community renewable generation projects in Section 1-10 of the Illinois Power Agency Act;

(2) is located on the customer's side of the billing meter and for the customer's own use;

(3) is interconnected to electric distribution facilities owned by the electric utility under rules adopted by the Commission by means of one or more inverters or smart inverters required by this Section, as applicable.

For purposes of this Section, "distributed generation" shall satisfy the definition of distributed renewable energy generation device set forth in Section 1-10 of the Illinois Power Agency Act to the extent such definition is consistent with the requirements of this Section.

In addition, any new photovoltaic distributed generation that is installed after June 1, 2017 (the effective date of Public Act 99-906) must be installed by a qualified person, as defined by subsection (i) of Section 1-56 of the Illinois Power Agency Act.

The tariff shall include a base rebate that compensates distributed generation for the system-wide grid services associated with distributed generation and an additional payment or payments for any additive services identified by the Commission under Section 16-107.9. The distributed generation and storage tariff shall provide that the smart inverter or smart inverters associated with the distributed generation shall provide autonomous response to grid conditions through its default settings as approved by the Commission. Default settings may not be changed after the execution of the interconnection agreement except by mutual agreement between the utility and the owner or operator of the distributed generation. Nothing in this Section shall negate or supersede Institute of Electrical and Electronics Engineers equipment standards or other similar standards or requirements. The tariff shall not limit the ability of the smart inverter or smart inverters or other distributed energy resource to provide wholesale market products such as regulation, demand response, or other services, or limit the ability of the owner of the smart inverter or the other distributed energy resource to receive compensation for providing those wholesale market products or services.

(b-5) Within 30 days after the effective date of this amendatory Act of the 102nd General Assembly, each electric public utility with 3,000,000 or more retail customers shall file a tariff with the Commission that further compensates any

retail customer that installs or has installed photovoltaic facilities paired with energy storage facilities on or adjacent to its premises for the benefits the facilities provide to the distribution grid. The tariff shall provide that, in addition to the other rebates identified in this Section, the electric utility shall rebate to such retail customer (i) the previously incurred and future costs of installing interconnection facilities and related infrastructure to enable full participation in the PJM Interconnection, LLC or its successor organization frequency regulation market; and (ii) all wholesale demand charges incurred after the effective date of this amendatory Act of the 102nd General Assembly. The Commission shall approve, or approve with modification, the tariff within 120 days after the utility's filing.

To be eligible for a rebate described in this subsection (b-5), the owner or operator of the distributed generation shall provide proof of participation in the frequency regulation market. Upon providing proof of participation, the retail customer shall be entitled to a rebate equal to the cost of the interconnection facilities paid to ComEd, regardless of whether the retail customer would have incurred the interconnection costs in the absence of participating in the frequency regulation market, plus the cost of software, telecommunications hardware, and telemetry paid to enable communication with PJM for purposes of participating in the

frequency regulation market. A utility providing rebates described in this subsection (b-5) shall be entitled to recover the costs of the rebates as provided for in subsection (h) of this Section. To the extent the electric utility's tariff is modified to comply with this subsection (b-5), it shall file a revised tariff with the Commission within 120 days after the effective date of this amendatory Act of the 104th General Assembly, and the Commission shall approve, or approve with modification, the tariff within 240 days after the Commission initiates the docket.

(c) The proposed tariff authorized by subsection (b) of this Section shall include the following participation terms for rebates to be applied under this Section for distributed generation that satisfies the criteria set forth in subsection (b) of this Section:

(1) The owner or operator of distributed generation or distributed storage that services customers not eligible for net metering under subsection (d), (d-5), or (e) of Section 16-107.5 of this Act may apply for a rebate as provided for in this Section. The value of the rebate shall be $250 per kilowatt of nameplate generating capacity, measured as nominal DC power output, of that customer's distributed generation. To the extent the distributed generation also has an associated energy storage, then until the threshold date for systems other than community renewable generation projects paired with

an energy storage system, the energy storage system shall be separately compensated with a rebate of $250 per kilowatt-hour of nameplate capacity. To the extent that a community renewable generation project is paired with an energy storage system or an energy storage system that is paired with distributed generation, the energy storage system shall be separately compensated with a rebate of $250 per kilowatt-hour of nameplate capacity. A stand-alone energy storage system shall be compensated with a rebate of $250 per kilowatt-hour of nameplate capacity. Any distributed generation device that is compensated for storage in this subsection (1) after the effective date of this amendatory Act of the 104th General Assembly shall participate in one or more programs authorized by paragraph (1) of subsection (e). Compensation for any additive services shall be as determined by the Commission in the proceeding described in Section 16-107.9. To the extent that an electric utility's tariffs are inconsistent with the requirements of this paragraph (1) as modified by this amendatory Act of the 104th General Assembly, the electric utility shall, within 60 days after the effective date of this amendatory Act of the 104th General Assembly, file modified tariffs consistent with the requirements of this paragraph (1). If the Commission chooses to suspend the modified tariffs following notice and hearing, the Commission shall issue

an order approving, or approving with modification, the modified tariffs no later than 90 days after the Commission initiates the docket.

(2) The owner or operator of distributed generation that, before the threshold date, would have been eligible for net metering under subsection (d), (d-5), or (e) of Section 16-107.5 of this Act and that has not previously received a distributed generation rebate, may apply for a rebate as provided for in this Section. Until the later of December 31, 2029 or the threshold date, the value of the base rebate shall be $300 per kilowatt of nameplate generating capacity, measured as nominal DC power output, of the distributed generation. On or after January 1, 2030, the value of the base rebate shall be $250 per kilowatt of nameplate generating capacity, measured as nominal DC power output, of the distributed generation. The owner or operator of distributed generation that, before the threshold date, is eligible for net metering under subsection (d), (d-5), or (e) of Section 16-107.5 of this Act may apply for a base rebate for an associated energy storage device behind the same retail customer meter as the distributed generation, regardless of whether the distributed generation applies for a rebate for the distributed generation device. An energy storage system, whether or not paired with distributed generation, shall be separately compensated at a base payment of $300 per

kilowatt-hour of nameplate capacity until the threshold date. After the threshold date, a stand-alone energy storage system shall be compensated with a rebate of $250 per kilowatt-hour of nameplate capacity. Any distributed generation device that is compensated for storage in this subsection (2) has the option to participate in either an hourly pricing program or time-of-use rate program and any distributed generation device that is compensated for storage in this subsection (2) after the effective date of this amendatory Act of the 104th General Assembly shall participate in a scheduled dispatch program set forth in paragraph (1) of subsection (e) when it becomes available. Compensation for any additive services or other programs shall be as determined by the Commission in the proceeding described in Section 16-107.9. To the extent that an electric utility's tariffs are inconsistent with the requirements of this paragraph (2) as modified by this amendatory Act of the 104th General Assembly, such electric utility shall, within 60 days, file modified tariffs consistent with the requirements of this paragraph (2).

(3) Upon approval of a rebate application submitted under this subsection (c), the retail customer shall no longer be entitled to receive any delivery service credits for the excess electricity generated by its facility and shall be subject to the provisions of subsection (n) of

Section 16-107.5 of this Act unless the owner or operator receives a rebate only for an energy storage device and not for the distributed generation device.

(4) To be eligible for a rebate described in this subsection (c), the owner or operator of the distributed generation must have a smart inverter installed and in operation on the distributed generation.

(5) The owner or operator of any distributed generation or distributed storage system whose electric service has not been declared competitive under Section 16-113 as of July 1, 2011 or the owner or operator of a community renewable generation project participating in the Adjustable Block Program as a community-driven community solar project as defined in item (v) of subparagraph (K) of paragraph (1) of subsection (c) of Section 1-75 of the Illinois Power Agency Act and that has an interconnection agreement dated after the effective date of this amendatory Act of the 104th General Assembly shall be eligible for an additional payment or payments to the applicable rebate under paragraphs (1) or (2) of this subsection (c) in an amount set by tariff and approved by the Commission if located in an equity investment eligible community, as defined in Section 1-10 of the Illinois Power Agency Act, at the time the interconnection agreement is signed.

(d) The Commission shall review the proposed tariff

authorized by subsection (b) of this Section and may make changes to the tariff that are consistent with this Section and with the Commission's authority under Article IX of this Act, subject to notice and hearing. Following notice and hearing, the Commission shall issue an order approving, or approving with modification, such tariff no later than 240 days after the utility files its tariff. Upon the effective date of this amendatory Act of the 102nd General Assembly, an electric utility shall file a petition with the Commission to amend and update any existing tariffs to comply with subsections (b) and (c).

(e) By no later than June 30, 2026, the Commission shall establish a scheduled dispatch virtual power plant program in which customers that own or operate an energy storage system that receive a rebate for the distributed storage portion under paragraphs (1) and (2) of subsection (c) are required to participate.

(1) The scheduled dispatch virtual power plant program shall require an enrollment period of 5 years and require each participating system to commit to dispatch each weekday during the months of June, July, August, and September from 4 p.m. to 6 p.m. for systems interconnected behind the meter of a retail customer and from 4 p.m. to 7 p.m. for systems interconnected on the distribution system of an electric utility and not behind the meter of a retail customer. For stand-alone storage, commitments to dispatch

shall be voluntary. Upon petition by the applicable electric utility or on its own motion, the Commission may approve different dispatch schedules provided that dispatch events do not exceed 80 days and shall not exceed 2 hours for systems interconnected behind the meter of a retail customer or 3 hours for systems interconnected on the distribution system of an electric utility and not behind the meter of a retail customer.

(2) The scheduled dispatch virtual power plant program shall be open to all customer classes with eligible distributed energy resources and shall measure performance based on combined export of paired resources if the eligible device is inverter-based renewables paired with storage through at least December 31, 2030 and until the Commission approves and the utility implements a tariff under subsection (d) of Section 16-107.9 of this Act, at which time such customers shall be transitioned to that tariff in a manner prescribed in the tariff. The scheduled dispatch virtual power plant program shall be required for all community renewable generation projects paired with distributed energy resources without regard to the threshold date. For the purposes of this Section, dispatch includes both offsets of customer usage and export to the utility's distribution system.

(3) Compensation shall be set by the Commission but shall not be less than $10 per kilowatt of average

dispatch during identified hours, paid to enrolled customers or project owners at end of program year. For distributed generation interconnected to an electric utility's distribution system and not behind the meter of a retail customer, dispatch to determine compensation shall be measured at point of interconnection. For distributed generation and storage interconnected behind the meter of a retail customer, dispatch to determine compensation shall be measured at the inverter connected to the storage device.

(4) No later than June 1, 2026, each public utility shall file an initial scheduled dispatch virtual power plant tariff. The Commission shall approve, or approve with modifications, the initial scheduled dispatch virtual power plant tariff for each utility not later than June 30, 2026.

(5) The Commission, by its own motion or by petition by an electric utility, may establish other additive services programs in addition to the virtual power plant program under Section 16-107.9. Nothing in this Section is intended to preempt or delay the implementation of other utility programs for devices that are not a part of the scheduled dispatch virtual power plant program that the Commission or utility may propose or require.

(6) No later than December 31, 2028, the utilities shall file with the Commission a report that includes

information on the following: (A) the number of participants in the scheduled dispatch program; (B) impacts to energy supply prices and wholesale market activities; (C) impacts on distribution system investments and planning; and (D) any potential pathways by which the virtual power plan program described in Section 16-107.9 may be designed to capture wholesale market value through participation in the wholesale market and apply that wholesale market revenue to reduce utility distribution or electric supply rates for customers.

(f) Notwithstanding any provision of this Act to the contrary, the owner or operator of a community renewable generation project as defined in Section 1-10 of the Illinois Power Agency Act whether or not a paired energy storage system or the owner or operator of an energy storage system that is eligible for net metering under subsection (l-10) of Section 16-107.5 shall also be eligible to apply for the rebate described in this Section. The owner or operator of the community renewable generation project whether or not a paired energy storage system or the owner or operator of an energy storage system that is eligible for net metering under subsection (l-10) of Section 16-107.5 may apply for a rebate only if the owner or operator, or previous owner or operator, of the community renewable generation project whether or not a paired energy storage system or the owner or operator of an energy storage system that is eligible for net metering under

subsection (l-10) of Section 16-107.5 has not already submitted an application, and, regardless of whether the subscriber is a residential or non-residential customer, may be allowed the amount identified in paragraph (1) of subsection (c) applicable on the date that the application is submitted.

(g) The owner of a distributed storage system, whether or not paired with distributed generation, may apply for the rebate or rebates approved under this Section at the time of execution of an interconnection agreement with the distribution utility and shall receive the value available at that time of execution of the interconnection agreement. The utility shall issue the rebate no later than 60 days after the project is energized. In the event the application is incomplete or the utility is otherwise unable to calculate the payment based on the information provided by the owner, the utility shall issue the payment no later than 60 days after the application is complete or all requested information is received.

(h) An electric utility shall recover from its retail customers all of the costs of the rebates made under a tariff or tariffs approved under this Section, including, but not limited to, the value of the rebates and all costs incurred by the utility to comply with and implement subsections (b), (b-5), (c), and (e) of this Section, consistent with the following provisions:

(1) The utility shall defer the full amount of its costs as a regulatory asset. The total costs deferred as a regulatory asset shall be amortized over a 15-year period. The unamortized balance shall be recognized as of December 31 for a given year. The utility shall also earn a return on the total of the unamortized balance of the regulatory assets, less any deferred taxes related to the unamortized balance, at an annual rate equal to the utility's weighted average cost of capital that includes, based on a year-end capital structure, the utility's actual cost of debt for the applicable calendar year and a cost of equity, which shall be equal to the baseline cost of equity approved by the Commission for the utility's electric distribution rates case effective during the applicable year, whether those rates are set pursuant to Section 9-201, subparagraph (B) of paragraph (3) of subsection (d) of Section 16-108.18, or any successor electric distribution ratemaking paradigm.

When an electric utility creates a regulatory asset under the provisions of this paragraph (1) of subsection (h), the costs are recovered over a period during which customers also receive a benefit, which is in the public interest. Accordingly, it is the intent of the General Assembly that an electric utility that elects to create a regulatory asset under the provisions of this paragraph (1) shall recover all of the associated costs, including,

but not limited to, its cost of capital as set forth in this paragraph (1). After the Commission has approved the prudence and reasonableness of the costs that comprise the regulatory asset, the electric utility shall be permitted to recover all such costs, and the value and recoverability through rates of the associated regulatory asset shall not be limited, altered, impaired, or reduced. To enable the financing of the incremental capital expenditures, including regulatory assets, for electric utilities that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State, the utility's actual year-end capital structure that includes a common equity ratio, excluding goodwill, of up to and including 50% of the total capital structure shall be deemed reasonable and used to set rates.

(2) The utility, at its election, may recover all of the costs as part of a filing for a general increase in rates under Article IX of this Act, as part of an annual filing to update a performance-based rate under Section 16-108.18, or through an automatic adjustment clause tariff, provided that nothing in this paragraph (2) permits the double recovery of such costs from customers. If the utility elects to recover the costs it incurs under subsections (b), (b-5), (c), and (e) through an automatic adjustment clause tariff, the utility may file its proposed tariff together with the tariff it files under

subsection (b) of this Section or at a later time. The proposed tariff shall provide for an annual reconciliation, less any deferred taxes related to the reconciliation, with interest at an annual rate of return equal to the utility's weighted average cost of capital as calculated under paragraph (1) of this subsection (h), including a revenue conversion factor calculated to recover or refund all additional income taxes that may be payable or receivable as a result of that return, of the revenue requirement reflected in rates for each calendar year, beginning with the calendar year in which the utility files its automatic adjustment clause tariff under this subsection (h), with what the revenue requirement would have been had the actual cost information for the applicable calendar year been available at the filing date. The Commission shall review the proposed tariff and may make changes to the tariff that are consistent with this Section and with the Commission's authority under Article IX of this Act, subject to notice and hearing. Following notice and hearing, the Commission shall issue an order approving, or approving with modification, such tariff no later than 240 days after the utility files its tariff.

(i) (Blank).

(j) No later than 90 days after the Commission enters an order, or order on rehearing, whichever is later, approving an

electric utility's proposed tariff under this Section, the electric utility shall provide notice of the availability of rebates under this Section.

(k) No later than January 1, 2030, the utilities shall file with the Commission a report that includes:

(1) the number and geographic distribution of participants receiving rebates pursuant to this Section;

(2) impacts to energy supply prices and wholesale market activities;

(3) impacts on distribution system investments and planning; and

(4) any other values deemed relevant by the Commission.

(l) Upon petition by the applicable electric utility or on its own motion, the Commission may adjust rebate levels for new customers and make other appropriate changes to the rebate program in a manner that is consistent with the State's clean energy goals and the public interest.

(Source: P.A. 103-1066, eff. 2-20-25; 104-458, eff. 6-1-26.)

(220 ILCS 5/16-107.9)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 16-107.9. Virtual power plant program.

(a) As used in this Section:

"Aggregator" means a third-party entity that participates

in the program, other than the electric utility or its affiliate, that (i) represents and aggregates the load of participating customers who collectively have the ability to deploy 100 kilowatts or more of deployment of eligible devices and (ii) is responsible for performance of the aggregation in the program.

"Battery" means a behind-the-meter energy storage device and associated equipment that operate together to fulfill program requirements.

"Commission" means the Illinois Commerce Commission.

"Customer" means an active electric service account holder of a utility.

"Direct participant" means a customer that enrolls in the program directly with the utility, rather than participating in the program through an aggregator.

"Distributed energy resource" has the meaning set forth in Section 16-107.6.

"Distributed energy resources management system" means a platform that may be used by distribution system operators or utilities to integrate grid resources, such as distributed energy resources, into system operations.

"Eligible device" means a customer or third party-owned distributed energy resource that satisfies the requirements for participation in the program as specified in the relevant program rider. "Eligible device" also means any device that can be controlled to respond to pricing, provide services,

including decrease peak electricity demand or shift demand from peak to off-peak periods, or inject power to the grid. "Eligible device" includes, but is not limited to, behind-the-meter energy storage systems, smart thermostats, electric vehicle batteries, including fleets, and distributed renewable energy devices paired with one or more energy storage systems.

"Emergency event" means an event called by the utility with fewer than 24 hours notice.

"Energy storage system" has the meaning set forth in subsection (a) of Section 16-107.6.

"Enrolled customer" means a customer that participates in the program through either an aggregator or as a direct participant.

"Enrolled device" means an enrolled customer's eligible device, as specified in the relevant tariff.

"Enterprise distributed energy resources management system" means a platform operated by the electric utility that interfaces with a grid-edge distributed energy resources management system to integrate distributed energy resources into utility electric system operations.

"Grid-edge distributed energy resources management system" means a platform owned by a party other than the electric utility that may be used to integrate distributed energy resources.

"Grid event" means a grid condition for which the utility

schedules or remotely dispatches enrolled devices to respond to, as specified in the grid service opportunities for each tariff.

"Grid service" means a capacity, energy, or ancillary service that supports grid operations.

"Participating customer" means an aggregator or a direct retail customer, as defined in Section 16-102, with one or more eligible devices.

"Performance payment" means a payment made to the participant based on the performance of an enrolled device providing a grid service during a grid event.

"Performance payment rate" means the compensation rate paid to participants for providing a particular grid service during a grid event.

"Smart inverter" has the meaning set forth in subsection (a) of Section 16-107.6.

"Upfront payment" means a one-time payment made at the time of enrollment.

"Virtual power plant" means an aggregation of behind-the-meter distributed energy resources operated in coordination to provide one or more grid services.

(b) The General Assembly finds that:

(1) virtual power plants are dynamic load management and energy supply resources that can support grid operations, reduce ratepayer costs, and achieve other important public policy goals;

(2) virtual power plants can reduce demand for grid supplied electricity during peak periods, shift electricity consumption out of peak periods, make renewable energy generated during off-peak periods available for use during peak periods, supply energy to the grid at desired times, provide frequency regulation, voltage support, and other ancillary services, reduce strain on the distribution system, manage localized peaks, improve system resiliency and reliability, and provide other grid services;

(3) virtual power plants can facilitate and optimize the utilization of electrical generation from wind and solar energy to help utilities increase hosting capacity and integrate more renewable energy resources;

(4) virtual power plants can reduce costs to ratepayers by utilizing customer-sited resources to provide grid services, avoiding or reducing reliance on fossil-fuel fired peaker plants, avoiding or deferring the need to construct new and more costly grid scale resources, optimizing the use of existing assets, and avoiding or deferring distribution and transmission system upgrades and other grid investments;

(5) virtual power plants can promote equity by reducing costs for all ratepayers, expanding access to distributed energy resources among low-income and moderate-income customers through improved distributed

energy resource finance ability, and providing other important co-benefits, including reduction in emissions of greenhouse gases and other pollutants, especially in environmental justice and other disadvantaged communities that host fossil fuel generation plants;

(6) the United States Department of Energy estimates that the United States could deploy 80 to 160 gigawatts of virtual power plants by 2030, a tripling of current levels, to support the rapid electrification of vehicles and homes and provide on the order of $10,000,000,000 in ratepayer savings annually. The deployment of virtual power plants can provide energy cost savings and other benefits to the people of Illinois;

(7) there are significant barriers to deployment and operation of virtual power plants, including the need for statutory and regulatory guidance and support, greater consistency in virtual power plant programs across regulatory jurisdictions, and for utility commitments to incorporate the use of virtual power plants into system operations and long-term resource planning;

(8) it is in the public interest to advance customer choice and leverage the expertise of private, non-utility entities to advance innovation and implement cost-effective clean energy solutions; and

(9) the policy of Illinois shall be to maximize the use of virtual power plants comprised of customer-owned

and third party-owned distributed energy resources to deliver system services and other benefits through utility administered virtual power plant programs in accordance with the provisions of this amendatory Act of the 104th General Assembly.

(c) No later than December 31, 2028, the Commission shall approve at least one virtual power plant tariff for each electric utility serving more than 300,000 customers in the State as of January 1, 2023. Each utility shall file a tariff or tariffs for approval no later than December 31, 2027 to allow retail customers in the electric utility's service areas to participate in a virtual power plant program proposal consistent with the provisions of this Section. The Commission shall provide opportunities for stakeholders to provide input on the virtual power plant programs proposed for implementation by each utility, which the Commission shall take into consideration in its review of each utility's filing. No later than one year after the utility's filing, the Commission shall approve or modify and approve each utility's virtual power plant program proposal for immediate implementation by the utility.

(d) The virtual power plant program filed under subsection (c) shall be developed for implementation through a tariff offering with standard terms and conditions for participation. The virtual power plant program tariff shall allow for customers with battery storage, non-battery storage and

electric vehicle technologies to enroll the devices in the program through aggregators or directly with the utility. The virtual power plant program tariff shall:

(1) provide a mechanism to incorporate existing programs, such as smart thermostat demand-response or electric vehicle charging programs currently offered by the utility, under the virtual power plant program framework;

(2) provide grid services opportunities for each eligible technology that customers and aggregators may provide, which shall include, at minimum, reducing the utility's applicable capacity and transmission obligations and capturing daily wholesale energy arbitrage opportunities through provision of grid services;

(3) provide additional functions and grid service opportunities that the Commission determines are supportive of efficient planning and operation of the electrical grid, including:

(A) minimizing the use of fossil fuels at peak times;

(B) local peak demand reductions;

(C) locational value;

(D) the avoidance or deferral of local transmission or distribution upgrades or capacity expansion;

(E) voltage support and other ancillary services;

and

(F) emergency grid services;

(4) provide operational parameters, which shall include, at a minimum:

(A) minimum and maximum numbers of grid events for which the utility may require dispatch from the enrolled distributed energy resources;

(B) months of the year that grid events may occur;

(C) days of the week that grid events may occur;

(D) times of day that grid events may occur;

(E) maximum duration of grid events; and

(F) minimum day-ahead advance notification requirement of grid events, except for emergency events, as applicable;

(5) include provisions for aggregators to participate in the virtual power plant program, participate in the utility's distributed energy resource management system as available, automatically enroll and manage their customers' participation, receive dispatch signals and other communications from the utility, deliver performance measurement and verification data to the utility, and receive virtual power plant program payments directly from the utility;

(6) include provisions that provide a standardized process for any eligible aggregator to enroll in the program and authorize the eligible aggregators to manage

individual customer device participation without additional authorizations from the utility;

(7) include provisions that allow a participating customer with multiple eligible devices to enroll the technologies either directly without an aggregator or through one or more aggregators in applicable programs under the tariff approved under this Section, provided that no particular device is accounted for more than once;

(8) include provisions for direct participant customers to participate with the utility's distributed energy resource management system as available, receive dispatch signals and other communications from the utility, deliver performance measurement and verification data to the utility, and receive virtual power plant program payments directly from the utility. Any provisions implementing this subpart that necessitate the installation of equipment to enable direct participation via the utility shall apply to customers who elect to participate as a direct participant and shall not be required of customers who participate via an aggregator or to customers who do not participate in the virtual power plant program;

(9) provide for measurement and verification of battery, non-battery, and electric vehicle technologies' ~~technologies~~ performance directly at the device without the requirement for the installation of an additional

meter;

(10) include upfront payment or performance payment compensation mechanisms for the peak reduction service, as well as for non-battery and electric vehicle technologies as the Commission deems appropriate. The performance payment shall be based on the average capacity provided during grid events. The Commission shall approve additional compensation mechanisms as it determines appropriate for other grid services provided under the battery, non-battery and electric vehicle riders. The virtual power plant program shall not assess penalties for non-performance; provided, however, that the Commission may approve reasonable mechanisms to disenroll customers for continued non-performance. In setting the values of upfront payment and performance payment compensation under this Section, the Commission shall set values for eligible systems that include energy storage that are, taking into account the time value of money, not less than: (A) for an eligible system that did not receive and agrees not to apply for a rebate for its storage component under subsection (c) of Section 16-107.6, $250 per kilowatt-hour nameplate capacity paid on the date the system is placed in service; or (B) for an eligible system that received a rebate for its storage component under subsection (c) of Section 16-107.6, $0 per kilowatt-hour;

(11) enable low-to-moderate income customers,

community-driven community solar projects, and customers whose electric service has not been declared competitive pursuant to Section 16-113 as of July 1, 2011 located in equity investment eligible investment communities to receive a higher upfront enrollment payment. The Commission shall coordinate with State energy officials and departments to make funding from federal programs and such other sources as may be available for use in providing higher upfront payments to customers classes as may be approved by the Commission in accordance with this subsection;

(12) provide that the performance payment rate applicable at the time of enrollment shall be for 5 years, after which time the participant may reenroll at the then applicable performance payment rate for an additional 5-year term;

(13) provide for a transition of customers from the scheduled dispatch program described in Section 16-107.6 to the virtual power plant program; and

(14) allow enrolled customers to participate in other applicable interconnection tariffs and grid service programs outside the virtual power plant program, so long as it does not result in double-counting of benefits for the same grid services.

(e) The Commission may adopt other reasonable requirements for participation consistent with this subsection, provided

that collateral from an aggregator shall not be required for participation.

(f) The utility may contract with a third party-owned distributed energy resource management system provider to assist with program implementation; however, implementation shall not be delayed due to the lack of utility-owned distributed energy resource management system capabilities or third party-owned distributed energy resource management system capabilities.

(g) The utility shall not send or receive dispatch signals directly to or from any participating customer represented by an aggregator for an event under the virtual power plant program described in this Section.

(h) Participating aggregators shall have capabilities to receive event signals from utilities or utility-contracted distributed energy resources management system providers.

(i) Utilities shall recover reasonably and prudently incurred costs to facilitate the virtual power plant program approved under subsection (c), including, but not limited to, distributed energy resource management systems provider and other service contract costs, operations and maintenance expenses, information technology costs, and other costs, expenses, and investments that the Commission finds necessary and prudent for the development and implementation of the program. The utility shall recover the cost of virtual power plant program upfront payments and performance payments and

such other payments made to participants through the tariff filed pursuant to subsection (h) of Section 16-107.6.

(j) No later than January 31 of each year, each utility shall file an annual report that includes, but is not limited to:

(1) the total capacity enrolled in each program rider developed in accordance with the requirements of Section, broken down by technology type, customer class, and aggregator and direct participant status for each grid service opportunity offered in the prior calendar year;

(2) recommendations to increase participation in the virtual power plant program; and

(3) any other information that the Commission may require.

(k) Each utility shall amend existing tariffs and procedures that limit the ability of customers to participate in providing grid services under the program, such as limitations on charging energy storage devices with grid energy or exporting energy to the grid from battery discharge.

(l) The tariffs approved by the Commission shall not reflect any additional charges, fees, or insurance requirements imposed on those owning or operating demand-response technologies beyond those imposed on similarly situated customers that do not own or operate demand-response technologies.

(m) As a condition of participating in the programs

described in this Section, prior to enrollment of a customer by an aggregator, the aggregator shall disclose the following:

(1) the payments, expressed as an amount or a formula, to be provided to the customer;

(2) between the aggregator and customer, who is responsible for paying penalties or fees; and

(3) between the aggregator and customer, who is responsible for posting collateral, if required.

Any tariff authorized by this Section shall incorporate the requirements under this subsection and shall require the electric utility to establish a complaint and Commission notification process and, on order of the Commission, suspend any aggregator repeatedly or egregiously violating such requirements.

(Source: P.A. 104-458, eff. 6-1-26.)

(220 ILCS 5/20-140)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 20-140. Interconnection Working Group.

(a) The Commission shall establish an Interconnection Working Group. The Working Group shall include representatives from electric utilities, developers of renewable electric generating facilities, representatives of new large loads seeking grid interconnection, other industries that regularly apply for interconnection with the electric utilities as

appropriate, representatives of distributed generation customers, the Commission staff, and other stakeholders with a substantial interest in the topics addressed by the Interconnection Working Group.

(b) The Interconnection Working Group shall address at least the following issues in relation to new generation and new large loads:

(1) the cost of and the best available technology for interconnection and metering, including the standardization and publication of standard costs;

(2) transparency, accuracy, and use of the distribution interconnection queue and hosting capacity maps;

(3) distribution system upgrade cost avoidance through use of advanced inverter functions, energy storage, and load management;

(4) predictability of the queue management process and enforcement of timelines;

(5) benefits and challenges associated with group studies and cost sharing;

(6) minimum requirements for application to the interconnection process and throughout the interconnection process to avoid queue clogging behavior;

(7) the process and customer service for interconnecting customers adopting distributed energy resources, including energy storage;

(8) options for metering distributed energy resources, including energy storage;

(9) interconnection of new technologies, including smart inverters and energy storage;

(10) collection, examination, and sharing of data on Level 1 interconnection costs, including cost and type of upgrades required for interconnection, and the use of this data to inform the final standardized cost of Level 1 interconnection;

(11) determination of a single standardized cost for Level 1 interconnections, which shall not exceed $200; and

(12) such other technical, policy, and tariff issues related to and affecting interconnection performance and customer service as determined by the Interconnection Working Group.

(c) The Commission may create subcommittees of the Interconnection Working Group to focus on specific issues of importance, as appropriate.

(d) The Interconnection Working Group shall report to the Commission on recommended improvements to interconnection rules, tariffs, and policies as determined by the Interconnection Working Group at least every year. A report shall include consensus recommendations of the Interconnection Working Group and, if applicable, additional recommendations for which consensus was not reached. Non-consensus shall not be a basis for excluding recommendations that are majority or

minority recommendations. The Commission shall use the report from the Interconnection Working Group to determine whether processes should be commenced to formally codify or implement the recommendations. The Interconnection Working Group shall provide the reports under this subsection (d) to the Commission on at least the following topics in the order listed below within a reasonable time, but no later than 12 months, after the effective date of this amendatory Act of the 104th General Assembly: (A) a mechanism for good cause extensions to construction timelines as long as the interconnection customer reasonably demonstrates progress; (B) a mechanism for all electric utilities to accept cash, letters of credit, or bonds for any deposits required under the interconnection agreement; (C) cost sharing for distribution system upgrades and interconnection facilities for multiple interconnection customers attempting to interconnect on the same feeder or substation; (D) requirements that interconnection studies initiate the study process ~~process~~ without delay based on queue position or status of applications ahead in the queue, and associated requirements for disclosure of contingent upgrades; (E) provisions allowing for queue reservation for the interconnection of projects installed on public school land to accommodate timing constraints of school board approval and budgeting; and (F) if feasible within the time allotted for the initial report, parameters for utility interconnection studies of energy

storage systems not paired with distributed generation that are based on the proposed operational profile of the energy storage systems.

(d-5) Within 12 months after the report directed by subsection (d) has been submitted, the Working Group shall report to the Commission on the following: (A) mandatory disclosures on the hosting capacity map and studies for contingent upgrades including timelines for notice of responsibility and payment; (B) a framework for concurrent study on multiple feeders for a distributed energy resource; and (C) if not provided in the initial report required under subsection (d), parameters for utility interconnection studies of energy storage systems not paired with distributed generation that are based on the proposed operational profile of the energy storage systems.

(d-10) Within 12 months after the report directed by subsection (d-5) has been submitted, the Working Group shall report to the Commission on the following: (A) dynamic hosting capacity maps; (B) standards for public queue and hosting capacity map information regarding individual projects in queue, including (i) distributed generation nameplate capacity, (ii) paired or stand-alone energy storage system nameplate capacity, (iii) detailed estimated upgrade costs, and (iv) systems that have completed upgrades and withdrawn projects; and (C) timelines for refund of deposits if the interconnection agreement is terminated. Within the same time

period, utilities shall publish all final interconnection agreements, facilities studies, and system impact studies.

(d-15) Within 12 months after the report directed by subsection (d-10) has been submitted, the Working Group shall report to the Commission on the following: (A) level of detail of costs in system impact and facilities studies and level 2 studies; and (B) a cap on charges to the interconnection customer based on a percentage of the non-binding cost estimate in the facilities study, system impact study, or level 2 study.

(e) In collaboration with the General Counsel of the Commission, the Office of Retail Market Development shall develop policies and procedures to facilitate employees of the Office in leading the Interconnection Working Group without interference with docketed proceedings. The policies and procedures developed under this subsection (e) shall be designed to allow the Interconnection Working Group to work without interruption.

(Source: P.A. 104-458, eff. 6-1-26.)

(220 ILCS 5/23-115)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 23-115. Resolution of disputes between facility owners and units of local government related to the siting of qualified energy facilities.

(a) The expedited procedures in this Section shall be used to enforce the provisions of the applicable State siting law.

(b) No petition may be filed under this Section until the facility owner that intends to file the petition has first notified the respondent of the alleged violation of the applicable State siting law and offered the respondent 7 days to correct or take substantial steps to begin and diligently pursue curing the alleged violation. Provision of notice and the opportunity to correct the situation creates a rebuttable presumption of knowledge under this Section. After the filing of a petition under this Section, the parties may agree to follow the mediation process under Section 10-101.1 of this Act. The time periods specified in subdivision (c)(7) of this Section shall be tolled during the time spent in mediation under Section 10-101.1.

(c) A facility owner may file a petition with the Commission alleging a violation of the applicable State siting law in accordance with this subsection. The following procedures shall govern the dispute resolution process:

(1) The petition shall be filed with the Chief Clerk of the Commission and shall be served in hand upon the respondent, the executive director, and the general counsel of the Commission at the time of the filing.

(2) A petition filed under this subsection shall include a statement that the requirements of subsection (b) have been fulfilled and that the respondent did not

correct the situation as requested.

(3) Reasonable discovery specific to the issue of the petition may commence upon filing of the petition.

(4) An answer and any other responsive pleading to the petition shall be filed with the Commission and served at the same time upon the complainant, the executive director, and the general counsel of the Commission within 7 days after the date on which the petition is filed.

(5) If the answer or responsive pleading raises the issue that the petition violates subsection (f) of this Section, the complainant may file a reply to such allegation within 3 days after actual service of such answer or responsive pleading. Within 4 days after the time for filing a reply has expired, the administrative law judge shall either issue a written decision dismissing the petition as frivolous in violation of subsection (f) of this Section including the reasons for such disposition or shall issue an order directing that the petition shall proceed.

(6) A pre-hearing conference shall be held within 14 days after the date on which the petition is filed.

(7) The hearing shall commence within 45 days of the date on which the petition is filed and shall be conducted by an administrative law judge. Parties and the Commission staff shall be entitled to present evidence and legal argument in oral or written form as deemed appropriate by

the administrative law judge. The administrative law judge shall issue a proposed order within 90 days after the date on which the petition is filed. The proposed order shall include reasons for the disposition of the petition and, if a violation of the applicable State siting law is found, directions and a deadline for correction of the violation.

(8) Any party may file a petition requesting the Commission to review the proposed order of the administrative law judge or arbitrator within 5 days after the proposed order is issued and file exceptions to the proposed order. Any party may file a response to a petition for review within 3 business days after actual service of the petition. After the time for filing of the petition for review, but no later than 60 days after the proposed order of the administrative law judge, the Commission shall decide to adopt the proposed order of the administrative law judge or shall issue its own final order.

(d) In resolving disputes filed under this Section, the administrative law judge and the Commission shall make determinations based on the requirements and intent of the applicable State siting law.

(e) In resolving disputes under this Section, the Commission shall have authority to issue a siting certificate for a qualified energy facility if the Commission determines

that:

(1) the respondent denied the qualified energy facility a siting certificate; or ~~and~~

(2) the qualified energy facility is in compliance with the applicable State siting laws for a qualified energy facility.

For the purposes of this Section, a commercial wind energy facility and commercial solar energy facility shall be in compliance with Section 5-12020 of the Counties Code and an energy storage system shall be in compliance with Section 5-12024 of the Counties Code. If the Commission determines that there is substantial harm to the facility owner, the Commission may, notwithstanding any other provision of this Act, seek temporary, preliminary, or permanent injunctive relief from a court of competent jurisdiction either before or after the hearing.

(f) A party shall not bring or defend a proceeding brought under this Section or assert or controvert an issue in a proceeding brought under this Section, unless there is a non-frivolous basis for doing so. By presenting a pleading, written motion, or other paper in petition or defense of the actions or inaction of a party under this Section, a party is certifying to the Commission that to the best of that party's knowledge, information, and belief, formed after a reasonable inquiry of the subject matter of the petition or defense, that the petition or defense is well grounded in law and fact, and

under the circumstances:

(1) it is not being presented to harass the other party, cause unnecessary delay, or create needless increases in the cost of litigation; and

(2) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after reasonable opportunity for further investigation or discovery as defined herein.

(g) If, after notice and a reasonable opportunity to respond, the Commission determines that subsection (f) has been violated, the Commission shall impose appropriate sanctions upon the party or parties that have violated subsection (f) ~~(i)~~ or are responsible for the violation.

(h) An appeal of a Commission order made pursuant to this Section shall not effectuate a stay of the order unless a court of competent jurisdiction specifically finds that the party seeking the stay will likely succeed on the merits, that the party will suffer irreparable harm without the stay, and that the stay is in the public interest.

(i) The Commission shall assess the parties under this subsection for all of the Commission's costs of investigation and conduct of the proceedings brought under this Section including, but not limited to, the prorated salaries of staff, attorneys, administrative law judges, and support personnel and including any travel and per diem, directly attributable

to the petition brought pursuant to this Section, but excluding those costs provided for in subsection (g), dividing the costs according to the resolution of the petition brought under this Section. All assessments made under this subsection shall be paid into the Public Utility Fund within 60 days after receiving notice of the assessments from the Commission. Interest at the statutory rate shall accrue after the expiration of the 60-day period. The Commission is authorized to apply to a court of competent jurisdiction for an order requiring payment.

(Source: P.A. 104-458, eff. 6-1-26.)

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

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