SB3929

LRB104 19036 BDA 32481 b

104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB3929

Introduced 2/6/2026, by Sen. Patrick J. Joyce

SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-5
220 ILCS 5/16-108.18
415 ILCS 5/9.15

Amends the Illinois Power Agency Act. Provides that it is the policy of the State to rapidly transition to 100% clean energy by 2060 (rather than 2050). Amends the Public Utilities Act. In provisions relating to performance incentives and metrics for electric utilities designed to encourage those utilities to support and facilitate the State's clean energy transition, extends timelines by 10 years from existing statutory dates to allow for competitive market development and cost declines. Amends the Environmental Protection Act. Provides that all electricity generating units and large greenhouse gas-emitting units that use coal or oil as a fuel and are not public GHG-emitting units shall permanently reduce all CO2e and co-pollutant emissions to zero no later than January 1, 2040 (rather than 2030). Further provides that All EGUs and large greenhouse gas-emitting units that use coal as a fuel and are public GHG-emitting units shall permanently reduce CO2e emissions to zero no later than December 31, 2055 (rather than 2045). Provides that if the emissions reduction requirement is not achieved by December 31, 2045 (rather than 2035), the plant shall retire one or more units or otherwise reduce its CO2e emissions by 45% from existing emissions by June 30, 2048 (rather than 2038). Provides that no later than January 1. 2050 (rather than 2040) all EGUs and large greenhouse gas-emitting units that have a NOx emission rate of greater than 0.12 lbs/MWh or a SO2 emission rate greater than 0.006 lb/MWh, and are not located in or within 3 miles of an environmental justice community designated as of January 1, 2021 or an equity investment eligible community shall permanently reduce all CO2e and co-pollutant emissions to zero, including through unit retirement or the use of 100% green hydrogen or other similar technology that is commercially proven to achieve zero carbon emissions.

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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 1-5 as follows:

(20 ILCS 3855/1-5)

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

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

(1.5) To provide the highest quality of life for the residents of Illinois and to provide for a clean and healthy environment, it is the policy of this State to rapidly transition to 100% clean energy by 2060 ~~2050~~.

(2) (Blank).

(3) (Blank).

(4) It is necessary to improve the process of procuring electricity to serve Illinois residents, to promote investment in energy efficiency and demand-response measures, and to maintain and support

development of clean coal technologies, generation resources that operate at all hours of the day and under all weather conditions, zero emission facilities, and renewable resources.

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

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

(7) Developing community solar projects in Illinois will help to expand access to renewable energy resources to more Illinois residents.

(8) Developing brownfield solar projects in Illinois will help return blighted or contaminated land to productive use while enhancing public health and the well-being of Illinois residents, including those in

environmental justice communities.

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

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

(10.5) The State should encourage the development of interregional high voltage direct current (HVDC) transmission lines that benefit Illinois. All ratepayers in the State served by the regional transmission organization where the HVDC converter station is interconnected benefit from the long-term price stability and market access provided by interregional HVDC transmission facilities. The benefits to Illinois include: reduction in wholesale power prices; access to lower-cost markets; enabling the integration of additional renewable generating units within the State through near instantaneous dispatchability and the provision of ancillary services; creating good-paying union jobs in Illinois; and, enhancing grid reliability and climate

resilience via HVDC facilities that are installed underground.

(10.6) The health, welfare, and safety of the people of the State are advanced by developing new HVDC transmission lines predominantly along transportation rights-of-way, with an HVDC converter station that is located in the service territory of a public utility as defined in Section 3-105 of the Public Utilities Act serving more than 3,000,000 retail customers, and with a project labor agreement as defined in Section 1-10 of this Act.

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

(12) The principles that underlie the procurement reform legislation apply also in the context of power purchasing.

(13) To ensure that the benefits of installing renewable resources are available to all Illinois residents and located across the State, subject to appropriation, it is necessary for the Agency to provide public information and educational resources on how residents can benefit from the expansion of renewable

energy in Illinois and participate in the Illinois Solar for All Program established in Section 1-56, the Adjustable Block program established in Section 1-75, the job training programs established by paragraph (1) of subsection (a) of Section 16-108.12 of the Public Utilities Act, and the programs and resources established by the Energy Transition Act.

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

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

(B) Conduct the competitive procurement processes identified in this Act.

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

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

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

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

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

(H) Implement renewable energy procurement and training programs throughout the State to diversify Illinois electricity supply, improve reliability, avoid and reduce pollution, reduce peak demand, and enhance

public health and well-being of Illinois residents, including low-income residents.

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

Section 10. The Public Utilities Act is amended by changing Section 16-108.18 as follows:

(220 ILCS 5/16-108.18)

Sec. 16-108.18. Performance-based ratemaking.

(a) The General Assembly finds:

(1) That improving the alignment of utility customer and company interests is critical to ensuring equity, rapid growth of distributed energy resources, electric vehicles, and other new technologies that substantially change the makeup of the grid and protect Illinois residents and businesses from potential economic and environmental harm from the State's energy systems.

(2) There is urgency around addressing increasing threats from climate change and assisting communities that have borne disproportionate impacts from climate change, including air pollution, greenhouse gas emissions, and energy burdens. Addressing this problem requires changes to the business model under which utilities in Illinois have traditionally functioned.

(3) Providing targeted incentives to support change through a new performance-based structure to enhance

ratemaking is intended to enable alignment of utility, customer, community, and environmental goals.

(4) Though Illinois has taken some measures to move utilities to performance-based ratemaking through the establishment of performance incentives and a performance-based formula rate under the Energy Infrastructure Modernization Act, these measures have not been sufficiently transformative in urgently moving electric utilities toward the State's ambitious energy policy goals: protecting a healthy environment and climate, improving public health, and creating quality jobs and economic opportunities, including wealth building, especially in economically disadvantaged communities and communities of color.

(5) These measures were not developed through a process to understand first what performance measures and penalties would help drive the sought-after behavior by the utilities.

(6) While the General Assembly has not made a finding that the spending related to the Energy Infrastructure and Modernization Act and its performance metrics was not reasonable, it is important to address concerns that these measures may have resulted in excess utility spending and guaranteed profits without meaningful improvements in customer experience, rate affordability, or equity.

(7) Discussions of performance incentive mechanisms

must always take into account the affordability of customer rates and bills for all customers, including low-income customers.

(8) The General Assembly therefore directs the Illinois Commerce Commission to complete a transition that includes a comprehensive performance-based regulation framework for electric utilities serving more than 500,000 customers. The breadth of this framework should revise existing utility regulations to position Illinois electric utilities to effectively and efficiently achieve current and anticipated future energy needs of this State, while ensuring affordability for consumers.

(b) As used in this Section:

"Commission" means the Illinois Commerce Commission.

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

"Distributed energy resources" or "DER" means a wide range of technologies that are connected to the grid including those that are located on the customer side of the customer's electric meter and can provide value to the distribution system, including, but not limited to, distributed generation, energy storage, electric vehicles, and demand response technologies.

"Economically disadvantaged communities" means areas of one or more census tracts where average household income does

not exceed 80% of area median income.

"Environmental justice communities" means the definition of that term as used and as may be updated in the long-term renewable resources procurement plan by the Illinois Power Agency and its Program Administrator in the Illinois Solar for All Program.

"Equity investment eligible community" means the geographic areas throughout Illinois which would most benefit from equitable investments by the State designed to combat discrimination. Specifically, the equity investment 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.

"Performance incentive mechanism" means an instrument by which utility performance is incentivized, which could include a monetary performance incentive.

"Performance metric" means a manner of measurement for a particular utility activity.

(c) Through coordinated, comprehensive system planning, ratemaking, and performance incentives, the performance-based ratemaking framework should be designed to accomplish the following objectives:

(1) maintain and improve service reliability and safety, including and particularly in environmental justice, low-income, and equity investment eligible communities;

(2) decarbonize utility systems at a pace that meets or exceeds State climate goals, while also ensuring the affordability of rates for all customers, including low-income customers;

(3) direct electric utilities to make cost-effective investments that support achievement of Illinois' clean energy policies, including, at a minimum, investments designed to integrate distributed energy resources, comply with critical infrastructure protection standards, plans, and industry best practices, and support and take advantage of potential benefits from the electric vehicle charging and other electrification, while mitigating the impacts;

(4) choose cost-effective assets and services, whether utility-supplied or through third-party contracting, considering both economic and environmental costs and the effects on utility rates, to deliver high-quality service to customers at least cost;

(5) maintain the affordability of electric delivery services for all customers, including low-income customers;

(6) maintain and grow a diverse workforce, diverse supplier procurement base and, for relevant programs, diverse approved-vendor pools, including increased opportunities for minority-owned, female-owned, veteran-owned, and disability-owned business enterprises;

(7) improve customer service performance and engagement;

(8) address the particular burdens faced by consumers in environmental justice and equity investment eligible communities, including shareholder, consumer, and publicly funded bill payment assistance and credit and collection policies, and ensure equitable disconnections, late fees, or arrearages as a result of utility credit and collection practices, which may include consideration of impact by zip code; and

(9) implement or otherwise enhance current supplier diversity programs to increase diverse contractor participation in professional services, subcontracting, and prime contracting opportunities with programs that address barriers to access. Supplier diversity programs shall address specific barriers related to RFP and contract access, access to capital, information technology and <u>cybersecurity</u> ~~cyber security~~ access and costs,

administrative burdens, and quality control with specific metrics, outcomes, and demographic data reported.

(d) Multi-Year Rate Plan.

(1) If an electric utility had a performance-based formula rate in effect under Section 16-108.5 as of December 31, 2020, then the utility may file a petition proposing tariffs implementing a 4-year Multi-Year Rate Plan as provided in this Section no later than, January 20, 2023, for delivery service rates to be effective for the billing periods January 1, 2024 through December 31, 2027. The Commission shall issue an order approving or approving as modified the utility's plan no later than December 20, 2023. The term "Multi-Year Rate Plan" refers to a plan establishing the base rates the utility shall charge for each delivery year of the 4-year period to be covered by the plan, which shall be subject to modification only as expressly allowed in this Section.

(2) A utility proposing a Multi-Year Rate Plan shall provide a 4-year investment plan and a description of the utility's major planned investments, including, at a minimum, all investments of $2,000,000 or greater over the plan period for an electric utility that serves more than 3,000,000 retail customers in the State or $500,000 for an electric utility that serves less than 3,000,000 retail customers in the State but more than 500,000 retail customers in the State. The 4-year investment plan must be

consistent with the Multi-Year Integrated Grid Plan described in Section 16-105.17 of this Act. The investment plan shall provide sufficiently detailed information, as required by the Commission, including, at a minimum, a description of each investment, the location of the investment, and an explanation of the need for and benefit of such an investment to the extent known.

(3) The Multi-Year Rate Plan shall be implemented through a tariff filed with the Commission consistent with the provisions of this paragraph (3) that shall apply to all delivery service customers. The Commission shall initiate and conduct an investigation of the tariff in a manner consistent with the provisions of this paragraph (3) and the provisions of Article IX of this Act, to the extent they do not conflict with this paragraph (3). The Multi-Year Rate Plan approved by the Commission shall do the following:

(A) Provide for the recovery of the utility's forecasted rate base, based on the 4-year investment plan and the utility's Integrated Grid Plan. The forecasted rate base must include the utility's planned capital investments, with rates based on average annual plant investment, and investment-related costs, including income tax impacts, depreciation, and ratemaking adjustments and costs that are prudently incurred and reasonable in

amount consistent with Commission practice and law. The process used to develop the forecasts must be iterative, rigorous, and lead to forecasts that reasonably represent the utility's investments during the forecasted period and ensure that the investments are projected to be used and useful during the annual investment period and least cost, consistent with the provisions of Articles VIII and IX of this Act.

(B) The cost of equity shall be approved by the Commission consistent with Commission practice and law.

(C) The revenue requirement shall reflect the utility's actual capital structure for the applicable calendar year. A year-end capital structure that includes a common equity ratio of up to and including 50% of the total capital structure shall be deemed prudent and reasonable. A higher common equity ratio must be specifically approved by the Commission.

(D) (Blank).

(E) Provide for recovery of prudent and reasonable projected operating expenses, giving effect to ratemaking adjustments, consistent with Commission practice and law under Article IX of this Act. Operating expenses for years after the first year of the Multi-Year Rate Plan may be estimated by the use of known and measurable changes, expense reductions

associated with planned capital investments as appropriate, and reasonable and appropriate escalators, indices, or other metrics.

(F) Amortize the amount of unprotected property-related excess accumulated deferred income taxes in rates as of January 1, 2023 over a period ending December 31, 2027, unless otherwise required to amortize the excess deferred income tax pursuant to Section 16-108.21 of this Act.

(G) Allow recovery of incentive compensation expense that is based on the achievement of operational metrics, including metrics related to budget controls, outage duration and frequency, safety, customer service, efficiency and productivity, environmental compliance and attainment of affordability and environmental goals, and other goals and metrics approved by the Commission. Incentive compensation expense that is based on net income or an affiliate's earnings per share shall not be recoverable.

(H) To the maximum extent practicable, align the 4-year investment plan and annual capital budgets with the electric utility's Multi-Year Integrated Grid Plan.

(4) The Commission shall establish annual rates for each year of the Multi-Year Rate Plan that accurately

reflect and are based only upon the utility's reasonable and prudent costs of service over the term of the plan, including the effect of all ratemaking adjustments consistent with Commission practice and law as determined by the Commission, provided that the costs are not being recovered elsewhere in rates. Tariff riders authorized by the Commission may continue outside of a plan authorized under this Section to the extent such costs are not recovered elsewhere in rates. For the first Multi-Year Rate Plan, the burden of proof shall be on the electric utility to establish the prudence of investments and expenditures and to establish that such investments consistent with and reasonably necessary to meet the requirements of the utility's first approved Multi-Year Integrated Grid Plan described in Section 16-105.17 of this Act. For subsequent Multi-Year Rate Plans, the burden of proof shall be on the electric utility to establish the prudence of investments and expenditures and to establish that such investments are consistent with and reasonably necessary to meet the requirements of the utility's most recently approved Multi-Year Integrated Grid Plan described in Section 16-105.17 of this Act. The sole fact that a cost differs from that incurred in a prior period or that an investment is different from that described in the Multi-Year Integrated Grid Plan shall not imply the imprudence or unreasonableness of that cost or investment.

The sole fact that an investment is the same or similar to that described in the Multi-Year Integrated Grid Plan shall not imply prudence and reasonableness of that investment.

(5) To facilitate public transparency, all materials, data, testimony, and schedules shall be provided to the Commission in an editable, machine-readable electronic format including .doc, .docx, .xls, .xlsx, and similar file formats, but not including .pdf or .exif. Should utilities designate any materials confidential, they shall have an affirmative duty to explain why the particular information is marked confidential. In determining prudence and reasonableness of rates, the Commission shall make its determination based upon the record, including each public comment filed or provided orally at open meetings consistent with the Commission's rules and practices.

(6) The Commission may, by order, establish terms, conditions, and procedures for submitting and approving a Multi-Year Rate Plan necessary to implement this Section and ensure that rates remain just and reasonable during the course of the plan, including terms and procedures for rate adjustment.

(7) An electric utility that files a tariff pursuant to paragraph (3) of this subsection (d) ~~(e)~~ must submit a one-time $300,000 filing fee at the time the Chief Clerk

of the Commission accepts the filing, which shall be a recoverable expense.

(8) An electric utility operating under a Multi-Year Rate Plan shall file a new Multi-Year Rate Plan at least 300 days prior to the end of the initial Multi-Year Rate Plan unless it elects to file a general rate case pursuant to paragraph (9), and every 4 years thereafter, with a rate-effective date of the proposed tariffs such that, after the Commission suspension period, the rates would take effect immediately at the close of the final year of the initial Multi-Year Rate Plan. In subsequent Multi-Year Rate Plans, as in the initial plans, utilities and stakeholders may propose additional metrics that achieve the outcomes described in paragraph (2) of subsection (f) of this Section.

(9) Election of Rate Case.

(A) On or before the date prescribed by subparagraph (B) of this paragraph (9) ~~of this Section~~, electric utilities that serve more than 500,000 retail customers in the State shall file either a general rate case under Section 9-201 of this Act, or a Multi-Year Rate Plan, as set forth in paragraph (1) of this subsection (d).

(B) Electric utilities described in subparagraph (A) of this paragraph (9) ~~of this Section~~ shall file their initial general rate case or Multi-Year Rate

Plan, as applicable, with the Commission no later than January 20, 2023.

(C) Notwithstanding which rate filing option an electric utility elects to file on the date prescribed by subparagraph (B) of this paragraph (9) ~~of this Section~~, the electric utility shall be subject to the Multi-year Integrated Plan filing requirements.

(D) Following its initial rate filing pursuant to paragraph (2), an electric utility subject to the requirements of this Section shall thereafter be permitted to elect a different rate filing option consistent with any filing intervals established for a general rate case or Multi-Year Rate Plan, as follows:

(i) An electric utility that initially elected to file a Multi-Year Rate Plan and thereafter elects to transition to a general rate case may do so upon completion of the 4-year Multi-Year Rate Plan by filing a general rate case at the same time that the utility would have filed its subsequent Multi-Year Rate Plan, as specified in paragraph (8) of this subsection (d). Notwithstanding this election, the annual adjustment of the final year of the Multi-Year Rate Plan shall proceed as specified in paragraph (6) of subsection (f).

(ii) An electric utility that initially elected to a file general rate case and thereafter

elects to transition to a Multi-Year Rate Plan may do so only at the 4-year filing intervals identified by paragraph (8) of this subsection (d).

(10) The Commission shall approve tariffs establishing rate design for all delivery service customers unless the electric utility makes the election specified in Section 16-105.5, in which case the rate design shall be subject to the provisions of that Section.

(11) The Commission shall establish requirements for annual performance evaluation reports to be submitted annually for performance metrics. Such reports shall include, but not be limited to, a description of the utility's performance under each metric and an identification of any extraordinary events that adversely affected the utility's performance.

(12) For the first Multi-Year Rate Plan, the Commission shall consolidate its investigation with the proceeding under Section 16-105.17 to establish the Multi-Year Integrated Grid Plan no later than 45 days after plan filing.

(13) Where a rate change under a Multi-Year Rate Plan will result in a rate increase, an electric utility may propose a rate phase-in plan that the Commission shall approve with or without modification or deny in its final order approving the new delivery services rates. A

proposed rate phase-in plan under this paragraph (13) must allow the new delivery services rates to be implemented in no more than 2 steps, as follows: in the first step, at least 50% of the approved rate increase must be reflected in rates, and, in the second step, 100% of the rate increase must be reflected in rates. The second step's rates must take effect no later than 12 months after the first step's rates were placed into effect. The portion of the approved rate increase not implemented in the first step shall be recorded on the electric utility's books as a regulatory asset, and shall accrue carrying costs to ensure that the utility does not recover more or less than it otherwise would because of the deferral. This portion shall be recovered, with such carrying costs at the weighted average cost of capital, through a surcharge applied to retail customer bills that (i) begins no later than 12 months after the date on which the second step's rates went into effect and (ii) is applied over a period not to exceed 24 months. Nothing in this paragraph is intended to limit the Commission's authority to mitigate the impact of rates caused by rate plans, or any other instance on a revenue-neutral basis; nor shall it mitigate a utility's ability to make proposals to mitigate the impact of rates. When a deferral, or similar method, is used to mitigate the impact of rates, the utility should be allowed to recover carrying costs.

(14) Notwithstanding the provisions of paragraph (13), the Commission may, on its own initiative, take revenue-neutral measures to relieve the impact of rate increases on customers. Such initiatives may be taken by the Commission in the first Multi-Year Rate Plan, subsequent multi-year plans, or in other instances described in this Act.

(15) Whenever during the pendency of a Multi-Year Rate Plan, an electric utility subject to this Section becomes aware that, due to circumstances beyond its control, prudent operating practices will require the utility to make adjustments to the Multi-Year Rate Plan, the electric utility may file a petition with the Commission requesting modification of the approved annual revenue requirements included in the Multi-Year Rate Plan. The electric utility must support its request with evidence demonstrating why a modification is necessary, due to circumstances beyond the utility's control, to follow prudent operating practices and must set forth the changes to each annual revenue requirement to be approved, and the basis for any changes in anticipated operating expenses or capital investment levels. The utility shall affirmatively address the impact of the changes on the Multi-Year Integrated Grid Plan and Multi-Year Rate Plan originally submitted and approved by the Commission. Any interested party may file an objection to the changes proposed, or offer alternatives to the

utility's proposal, as supported by testimony and evidence. After notice and hearing, the Commission shall issue a final order regarding the electric utility's request no later than 180 days after the filing of the petition.

(e) Performance incentive mechanisms.

(1) The electric industry is undergoing rapid transformation, including fundamental changes in how electricity is generated, procured, and delivered and how customers are choosing to participate in the supply and delivery of electricity to and from the electric grid. Building upon the State's goals to increase the procurement of electricity from renewable energy resources, including distributed generation and storage devices, the General Assembly finds that electric utilities should make cost-effective investments that support moving forward on Illinois' clean energy policies. It is therefore in the State's interest for the Commission to establish performance incentive mechanisms in order to better tie utility revenues to performance and customer benefits, accelerate progress on Illinois energy and other goals, ensure equity and affordability of rates for all customers, including low-income customers, and hold utilities publicly accountable.

(2) The Commission shall approve, based on the substantial evidence proffered in the proceeding initiated

pursuant to this subsection performance metrics that, to the extent practicable and achievable by the electric utility, encourage cost-effective, equitable utility achievement of the outcomes described in this subsection (e) while ensuring no degradation in the significant performance improvement achieved through previously established performance metrics. For each electric utility, the Commission shall approve metrics designed to achieve incremental improvements over baseline performance values and targets, over a performance period of up to 10 years, and no less than 4 years<u>, with timelines extended by 10 years from existing statutory dates to allow for competitive market development and cost declines</u>.

(A) The Commission shall approve no more than 8 metrics, with at least one metric from each of the categories below, for each electric utility, from items (i) through (vi) of this subparagraph (A). Upon a utility request, the Commission may approve the use of a specific, measurable, and achievable tracking metric described in paragraph (3) of this subsection (e) as a performance metric pursuant to paragraph (2) of this subsection (e).

(i) Metrics designed to ensure the utility maintains and improves the high standards of both overall and locational reliability and resiliency, and makes improvements in power quality, including

and particularly in environmental justice and equity investment eligible communities.

(ii) Peak load reductions attributable to demand response programs.

(iii) Supplier diversity expansion, including diverse contractor participation in professional services, subcontracting, and prime contracting opportunities, development of programs that address the barriers to access, aligning demographics of contractors to the demographics in the utility's service territory, establish long-term mentoring relationships that develop and remove barriers to access for diverse and underserved contractors. The utilities shall provide solutions, resources, and tools to address complex barriers of entry related to costly and time-intensive cybersecurity ~~cyber security~~ requirements, increasingly complex information technology requirements, insurance barriers, service provider sign-up process barriers, administrative process barriers, and other barriers that inhibit access to RFPs and contracts. For programs with contracts over $1,000,000, winning bidders must demonstrate a subcontractor development or mentoring relationship with at least one of their diverse

subcontracting partners for a core component of the scope of the project. The mentoring time and cost shall be taken into account in the creation of RFP and shall include a structured and measured plan by the prime contractor to increase the capabilities of the subcontractor in their proposed scope. The metric shall include reporting on all supplier diversity programs by goals, program results, demographics and geography, with separate reporting by category of minority-owned, female-owned, veteran-owned, and disability-owned business enterprise metrics. The report shall include resources and expenses committed to the programs and conversion rates of new diverse utility contractors.

(iv) Achieve affordable customer delivery service costs, with particular emphasis on keeping the bills of lower-income households, households in equity investment eligible communities, and household in environmental justice communities within a manageable portion of their income and adopting credit and collection policies that reduce disconnections for these households specifically and for customers overall to ensure equitable disconnections, late fees, or arrearages as a result of utility credit and collection

practices, which may include consideration of impact by zip code.

(v) Metrics designed around the utility's timeliness to customer requests for interconnection in key milestone areas, such as: initial response, supplemental review, and system feasibility study; improved average service reliability index for those customers that have interconnected a distributed renewable energy generation device to the utility's distribution system and are lawfully taking service under an applicable tariff; offering a variety of affordable rate options, including demand response, time of use rates for delivery and supply, real-time pricing rates for supply; comprehensive and predictable net metering, and maximizing the benefits of grid modernization and clean energy for ratepayers; and improving customer access to utility system information according to consumer demand and interest.

(vi) Metrics designed to measure the utility's customer service performance, which may include the average length of time to answer a customer's call by a customer service representative, the abandoned call rate and the relative ranking of the electric utility, by a reputable third-party

organization, in customer service satisfaction when compared to other similar electric utilities in the Midwest region.

(B) Performance metrics shall include a description of the metric, a calculation method, a data collection method, annual performance targets, and any incentives or penalties for the utility's achievement of, or failure to achieve, their performance targets, provided that the total amount of potential incentives and penalties shall be symmetrical. Incentives shall be rewards or penalties or both, reflected as basis points added to, or subtracted from, the utility's cost of equity. The metrics and incentives shall apply for the entire time period covered by a Multi-Year Rate Plan. The total for all metrics shall be equal to 40 basis points, however, the Commission may adjust the basis points upward or downward by up to 20 basis points for any given Multi-Year Rate Plan, as appropriate, but in no event may the total exceed 60 basis points or fall below 20 basis points.

(C) Metrics related to reliability shall be implemented to ensure equitable benefits to environmental justice and equity investment eligible communities, as defined in this Act.

(D) The Commission shall approve performance

metrics that are reasonably within control of the utility to achieve. The Commission also shall not approve a metric that is solely expected to have the effect of reducing the workforce. Performance metrics should measure outcomes and actual, rather than projected, results where possible. Nothing in this subparagraph is intended to require that different electric utilities must be subject to the same metrics, goals, or incentives.

(E) Increases or enhancements to an existing performance goal or target shall be considered in light of other metrics, cost-effectiveness, and other factors the Commission deems appropriate. Performance metrics shall include one year of tracking data collected in a consistent manner, verifiable by an independent evaluator in order to establish a baseline and measure outcomes and actual results against projections where possible.

(F) For the purpose of determining reasonable performance metrics and related incentives, the Commission shall develop a methodology to calculate net benefits that includes customer and societal costs and benefits and quantifies the effect on delivery rates. In determining the appropriate level of a performance incentive, the Commission shall consider: the extent to which the amount is likely to encourage

the utility to achieve the performance target in the least cost manner; the value of benefits to customers, the grid, public health and safety, and the environment from achievement of the performance target, including in particular benefits to equity investment eligible community; the affordability of customer's electric bills, including low-income customers, the utility's revenue requirement, the promotion of renewable and distributed energy, and other such factors that the Commission deems appropriate. The consideration of these factors shall result in an incentive level that ensures benefits exceed costs for customers.

(G) Achievement of performance metrics are based on the assumptions that the utility will adopt or implement the technology and equipment, and make the investments to the extent reasonably necessary to achieve the goal. If the electric utility is unable to meet the performance metrics as a result of extraordinary circumstances outside of its control, including, but not limited to, government-declared emergencies, then the utility shall be permitted to file a petition with the Commission requesting that the utility be excused from compliance with the applicable performance goal or goals and the associated financial incentives and penalties. The

burden of proof shall be on the utility, consistent with Article IX, and the utility's petition shall be supported by substantial evidence. The Commission shall, after notice and hearing, enter its order approving or denying, in whole or in part, the utility's petition based on the extent to which the utility demonstrated that its achievement of the affected metrics and performance goals was hindered by extraordinary circumstances outside of the utility's control.

(3) The Commission shall approve reasonable and appropriate tracking metrics to collect and monitor data for the purpose of measuring and reporting utility performance and for establishing future performance metrics. These additional tracking metrics shall include at least one metric from each of the following categories of performance:

(A) Minimize emissions of greenhouse gases and other air pollutants that harm human health, particularly in environmental justice and equity investment eligible communities, through minimizing total emissions by accelerating electrification of transportation, buildings, and industries where such electrification results in net reductions, across all fuels and over the life of electrification measures, of greenhouse gases and other pollutants, taking into

consideration the fuel mix used to produce electricity at the relevant hour and the effect of accelerating electrification on electricity delivery services rates, supply prices, and peak demand, provided the revenues the utility receives from accelerating electrification of transportation, buildings, and industries exceed the costs, with timelines extended by 10 years from existing statutory dates to allow for competitive market development and cost declines.

(B) Enhance the grid's flexibility to adapt to increased deployment of nondispatchable resources, improve the ability and performance of the grid on load balancing, and offer a variety of rate plans to match consumer consumption patterns and lower consumer bills for electricity delivery and supply.

(C) Ensure rates reflect cost savings attributable to grid modernization and utilize distributed energy resources that allow the utility to defer or forgo traditional grid investments that would otherwise be required to provide safe and reliable service.

(D) Metrics designed to create and sustain full-time-equivalent jobs and opportunities for all segments of the population and workforce, including minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by a person or persons with a disability, and that do not,

consistent with State and federal law, discriminate based on race or socioeconomic status as a result of Public Act 102-662.

(E) Maximize and prioritize the allocation of grid planning benefits to environmental justice and economically disadvantaged customers and communities, such that all metrics provide equitable benefits across the utility's service territory and maintain and improve utility customers' access to uninterrupted utility services.

(4) The Commission may establish new tracking and performance metrics in future Multi-Year Rate Plans to further measure achievement of the outcomes set forth in paragraph (2) of subsection (f) of this Section and the other goals and requirements of this Section.

(5) The Commission shall also evaluate metrics that were established in prior Multi-Year Rate Plans to determine if there has been an unanticipated material change in circumstances such that adjustments are required to improve the likelihood of the outcomes described in paragraph (2) of subsection (f). For metrics that were established in prior Multi-Year Rate Plan proceedings and that the Commission elects to continue, the design of these metrics, including the goals of tracking metrics and the targets and incentive levels and structures of performance metrics, may be adjusted pursuant to the

requirements in this Section. The Commission may also change, adjust, or phase out tracking and performance metrics that were established in prior Multi-Year Rate Plan proceedings if these metrics no longer meet the requirements of this Section or if they are rendered obsolete by the changing needs and technology of an evolving grid. Additionally, performance metrics that no longer require an incentive to create improved utility performance may become tracking metrics in a Multi-Year Rate Plan proceeding.

(6) The Commission shall initiate a workshop process no later than August 1, 2021, or 15 days after September 15, 2021 (the effective date of Public Act 102-662), whichever is later, for the purpose of facilitating the development of metrics for each utility. The workshop shall be coordinated by the staff of the Commission, or a facilitator retained by staff, and shall be organized and facilitated in a manner that encourages representation from diverse stakeholders and ensures equitable opportunities for participation, without requiring formal intervention or representation by an attorney. Working with staff of the Commission the facilitator may conduct a combination of workshops specific to a utility or applicable to multiple utilities where content and stakeholders are substantially similar. The workshop process shall conclude no later than October 31, 2021.

Following the workshop, the staff of the Commission, or the facilitator retained by the Staff, shall prepare and submit a report to the Commission that identifies the participants in the process, the metrics proposed during the process, any material issues that remained unresolved at the conclusions of such process, and any recommendations for workshop process improvements. Any workshop participant may file comments and reply comments in response to the Staff report.

(A) No later than January, 20, 2022, each electric utility that intends to file a petition pursuant to subsection (b) of this Section shall file a petition with the Commission seeking approval of its performance metrics, which shall include for each metric, at a minimum, (i) a detailed description, (ii) the calculation of the baseline, (iii) the performance period and overall performance goal, provided that the performance period shall not commence prior to January 1, 2024, (iv) each annual performance goal, (v) the performance adjustment, which shall be a symmetrical basis point increase or decrease to the utility's cost of equity based on the extent to which the utility achieved the annual performance goal, and (vi) the new or modified tariff mechanism that will apply the performance adjustments. The Commission shall issue its order approving, or approving with modification,

the utility's proposed performance metrics no later than September 30, 2022.

(B) No later than August 1, 2025, the Commission shall initiate a workshop process that conforms to the workshop purpose and requirements of this paragraph (6) of this Section to the extent they do not conflict. The workshop process shall conclude no later than October 31, 2025, and the staff of the Commission, or the facilitator retained by the Staff, shall prepare and submit a report consistent with the requirements described in this paragraph (6) of this Section. No later than January 20, 2026, each electric utility subject to the requirements of this Section shall file a petition the reflects, and is consistent with, the components required in this paragraph (6) of this Section, and the Commission shall issue its order approving, or approving with modification, the utility's proposed performance metrics no later than September 30, 2026.

(f) On May 1 of each year, following the approval of the first Multi-Year Rate Plan and its initial year, the Commission shall open an annual performance evaluation proceeding to evaluate the utilities' performance on their metric targets during the year just completed, as well as the appropriate Annual Adjustment as defined in paragraph (6). The Commission shall determine the performance and annual

adjustments to be applied through a surcharge in the following calendar year.

(1) On February 15 of each year, prior to the annual performance evaluation proceeding, each utility shall file a performance evaluation report with the Commission that includes a description of and all data supporting how the utility performed under each performance metric and an identification of any extraordinary events that adversely impacted the utility's performance.

(2) The metrics approved under this Section are based on the assumptions that the utility may fully implement the technology and equipment, and make the investments, required to achieve the metrics and performance goals. If the utility is unable to meet the metrics and performance goals because it was hindered by unanticipated technology or equipment implementation delays, government-declared emergencies, or other investment impediments, then the utility shall be permitted to file a petition with the Commission on or before the date that its report is due pursuant to paragraph (1) of this subsection (f) requesting that the utility be excused from compliance with the applicable performance goal or goals. The burden of proof shall be on the utility, consistent with Article IX, and the utility's petition shall be supported by substantial evidence. No later than 90 days after the utility files its petition, the Commission shall, after

notice and hearing, enter its order approving or denying, in whole or in part, the utility's petition based on the extent to which the utility demonstrated that its achievement of the affected metrics and performance goals was hindered by unanticipated technology or equipment implementation delays, or other investment impediments, that were reasonably outside of the utility's control.

(3) The electric utility shall provide for an annual independent evaluation of its performance on metrics. The independent evaluator shall review the utility's assumptions, baselines, targets, calculation methodologies, and other relevant information, especially ensuring that the utility's data for establishing baselines matches actual performance, and shall provide a report to the Commission in each annual performance evaluation describing the results. The independent evaluator shall present this report as evidence as a nonparty participant and shall not be represented by the utility's legal counsel. The independent evaluator shall be hired through a competitive bidding process with approval of the contract by the Commission.

The Commission shall consider the report of the independent evaluator in determining the utility's achievement of performance targets. Discrepancies between the utility's assumptions, baselines, targets, or calculations and those of the independent evaluator shall

be closely scrutinized by the Commission. If the Commission finds that the utility's reported data for any metric or metrics significantly and incorrectly deviates from the data reported by the independent evaluator, then the Commission shall order the utility to revise its data collection and calculation process within 60 days, with specifications where appropriate.

(4) The Commission shall, after notice and hearing in the annual performance evaluation proceeding, enter an order approving the utility's performance adjustment based on its achievement of or failure to achieve its performance targets no later than December 20 each year. The Commission-approved penalties or incentives shall be applied beginning with the next calendar year.

(5) In order to promote the transparency of utility investments during the effective period of a multi-year rate plan, inform the Commission's investigation and adjustment of rates in the annual adjustment process, and to facilitate the participation of stakeholders in the annual adjustment process, an electric utility with an effective Multi-Year Rate Plan shall, within 90 days of the close of each quarter during the Multi-Year Rate Plan period, submit to the Commission a report that summarizes the additions to utility plant that were placed into service during the prior quarter, which for purposes of the report shall be the most recently closed fiscal

quarter. The report shall also summarize the utility plant the electric utility projects it will place into service through the end of the calendar year in which the report is filed. The projections, estimates, plans, and forward-looking information that are provided in the reports pursuant to this paragraph (5) are for planning purposes and are intended to be illustrative of the investments that the utility proposes to make as of the time of submittal. Nothing in this paragraph (5) precludes, or is intended to limit, a utility's ability to modify and update its projections, estimates, plans, and forward-looking information previously submitted in order to reflect stakeholder input or other new or updated information and analysis, including, but not limited to, changes in specific investment needs, customer electric use patterns, customer applications and preferences, and commercially available equipment and technologies, however the utility shall explain any changes or deviations between the projected investments from the quarterly reports and actual investments in the annual report. The reports submitted pursuant to this subsection are intended to be flexible planning tools, and are expected to evolve as new information becomes available. Within 7 days of receiving a quarterly report, the Commission shall timely make such report available to the public by posting it on the Commission's website. Each quarterly report shall

include the following detail:

(A) The total dollar value of the additions to utility plant placed in service during the prior quarter;

(B) A list of the major investment categories the electric utility used to manage its routine standing operational activities during the prior quarter including the total dollar amount for the work reflected in each investment category in which utility plant in service is equal to or greater than $2,000,000 for an electric utility that serves more than 3,000,000 customers in the State or $500,000 for an electric utility that serves less than 3,000,000 customers but more than 500,000 customers in the State as of the last day of the quarterly reporting period, as well as a summary description of each investment category;

(C) A list of the projects which the electric utility has identified by a unique investment tracking number for utility plant placed in service during the prior quarter for utility plant placed in service with a total dollar value as of the last day of the quarterly reporting period that is equal to or greater than $2,000,000 for an electric utility that serves more than 3,000,000 customers in the State or $500,000 for an electric utility that serves less than

3,000,000 retail customers but more than $500,000 retail customers in the State, as well as a summary of each project;

(D) The estimated total dollar value of the additions to utility plant projected to be placed in service through the end of the calendar year in which the report is filed;

(E) A list of the major investment categories the electric utility used to manage its routine standing operational activities with utility plant projected to be placed in service through the end of the calendar year in which the report is filed, including the total dollar amount for the work reflected in each investment category in which utility plant in service is projected to be equal to or greater than $2,000,000 for an electric utility that serves more than 3,000,000 customers in the State or $500,000 for an electric utility that serves less than 3,000,000 retail customers but more than 500,000 retail customers in the State, as well as a summary description of each investment category; and

(F) A list of the projects for which the electric utility has identified by a unique investment tracking number for utility plant projected to be placed in service through the end of the calendar year in which the report is filed with an estimated dollar value

that is equal to or greater than $2,000,000 for an electric utility that serves more than 3,000,000 customers in the State or $500,000 for an electric utility that serves less than 3,000,000 retails customers but more than $500,000 retail customers in the State, as well as a summary description of each project.

(6) As part of the Annual Performance Adjustment, the electric utility shall submit evidence sufficient to support a determination of its actual revenue requirement for the applicable calendar year, consistent with the provisions of paragraphs (d) and (f) of this subsection. The electric utility shall bear the burden of demonstrating that its costs were prudent and reasonable, subject to the provisions of paragraph (4) of this subsection (f). The Commission's review of the electric utility's annual adjustment shall be based on the same evidentiary standards, including, but not limited to, those concerning the prudence and reasonableness of the known and measurable costs forecasted to be incurred by the utility, and the used and usefulness of the actual plant investment pursuant to Section 9-211 of this Act, that the Commission applies in a proceeding to review a filing for changes in rates pursuant to Section 9-201 of this Act. The Commission shall determine the prudence and reasonableness of the actual costs incurred by the utility

during the applicable calendar year, as well as determine the original cost of plant in service as of the end of the applicable calendar year. The Commission shall then determine the Annual Adjustment, which shall mean the amount by which, the electric utility's actual revenue requirement for the applicable year of the Multi-Year Rate Plan either exceeded, or was exceeded by, the revenue requirement approved by the Commission for such calendar year, plus carrying costs calculated at the weighted average cost of capital approved for the Multi-Year Rate Plan.

The Commission's determination of the electric utility's actual revenue requirement for the applicable calendar year shall be based on:

(A) the Commission-approved used and useful, prudent and reasonable actual costs for the applicable calendar year, which shall be determined pursuant to the following criteria:

(i) the overall level of actual costs incurred during the calendar year, provided that the Commission may not allow recovery of actual costs that are more than 105% of the approved revenue requirement calculated as provided in item (ii) of this subparagraph (A), except to the extent the Commission approves a modification of the Multi-Year Rate Plan to permit such recovery;

(ii) the calculation of 105% of the revenue requirement required by this subparagraph (A) shall exclude the revenue requirement impacts of the following volatile and fluctuating variables that occurred during the year: (i) storms and weather-related events for which the utility provides sufficient evidence to demonstrate that such expenses were not foreseeable and not in control of the utility; (ii) new business; (iii) changes in interest rates; (iv) changes in taxes; (v) facility relocations; (vi) changes in pension or post-retirement benefits costs due to fluctuations in interest rates, market returns or actuarial assumptions; (vii) amortization expenses related to costs; and (viii) changes in the timing of when an expenditure or investment is made such that it is accelerated to occur during the applicable year or deferred to occur in a subsequent year;

(B) the year-end rate base;

(C) the cost of equity approved in the multi-year rate plan; and

(D) the electric utility's actual year-end capital structure, provided that the common equity ratio in such capital structure may not exceed the common equity ratio that was approved by the Commission in

the Multi-Year Rate Plan.

(2) The Commission's determinations of the prudence and reasonableness of the costs incurred for the applicable year, and of the original cost of plant in service as of the end of the applicable calendar year, shall be final upon entry of the Commission's order and shall not be subject to collateral attack in any other Commission proceeding, case, docket, order, rule, or regulation; however, nothing in this Section shall prohibit a party from petitioning the Commission to rehear or appeal to the courts the order pursuant to the provisions of this Act.

(g) During the period leading to approval of the first Multi-Year Integrated Grid Plan, each electric utility will necessarily continue to invest in its distribution grid. Those investments will be subject to a determination of prudence and reasonableness consistent with Commission practice and law. Any failure to conform to the Multi-Year Integrated Grid Plan ultimately approved shall not imply imprudence or unreasonableness.

(h) After calculating the Performance Adjustment and Annual Adjustment, the Commission shall order the electric utility to collect the amount in excess of the revenue requirement from customers, or issue a refund to customers, as applicable, to be applied through a surcharge beginning with the next calendar year.

Electric utilities subject to the requirements of this Section shall be permitted to file new or revised tariffs to comply with the provisions of, and Commission orders entered pursuant to, this Section.

(Source: P.A. 104-417, eff. 8-15-25; revised 12-12-25.)

Section 15. The Environmental Protection Act is amended by changing Section 9.15 as follows:

(415 ILCS 5/9.15)

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

Sec. 9.15. Greenhouse gases.

(a) An air pollution construction permit shall not be required due to emissions of greenhouse gases if the equipment, site, or source is not subject to regulation, as defined by 40 CFR 52.21, as now or hereafter amended, for greenhouse gases or is otherwise not addressed in this Section or by the Board in regulations for greenhouse gases. These exemptions do not relieve an owner or operator from the obligation to comply with other applicable rules or regulations.

(b) An air pollution operating permit shall not be required due to emissions of greenhouse gases if the equipment, site, or source is not subject to regulation, as defined by Section 39.5 of this Act, for greenhouse gases or is otherwise not addressed in this Section or by the Board in

regulations for greenhouse gases. These exemptions do not relieve an owner or operator from the obligation to comply with other applicable rules or regulations.

(c) (Blank).

(d) (Blank).

(e) (Blank).

(f) As used in this Section:

"Carbon dioxide emission" means the plant annual CO_2 total output emission as measured by the United States Environmental Protection Agency in its Emissions & Generation Resource Integrated Database (eGrid), or its successor.

"Carbon dioxide equivalent emissions" or "CO_2e" means the sum total of the mass amount of emissions in tons per year, calculated by multiplying the mass amount of each of the 6 greenhouse gases specified in Section 3.207, in tons per year, by its associated global warming potential as set forth in 40 CFR 98, subpart A, table A-1 or its successor, and then adding them all together.

"Cogeneration" or "combined heat and power" refers to any system that, either simultaneously or sequentially, produces electricity and useful thermal energy from a single fuel source.

"Copollutants" refers to the 6 criteria pollutants that have been identified by the United States Environmental Protection Agency pursuant to the Clean Air Act.

"Electric generating unit" or "EGU" means a fossil

fuel-fired stationary boiler, combustion turbine, or combined cycle system that serves a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale.

"Environmental justice community" means the definition of that term based on existing methodologies and findings, used and as may be updated by the Illinois Power Agency and its program administrator in the Illinois Solar for All Program.

"Equity investment eligible community" or "eligible community" means the geographic areas throughout Illinois that would most benefit from equitable investments by the State designed to combat discrimination and foster sustainable economic growth. Specifically, eligible community means the following areas:

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

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

"Equity investment eligible person" or "eligible person"

means the persons who would most benefit from equitable investments by the State designed to combat discrimination and foster sustainable economic growth. Specifically, eligible person means the following people:

(1) persons whose primary residence is in an equity investment eligible community;

(2) persons whose primary residence is in a municipality, or a county with a population under 100,000, where the closure of an electric generating unit or mine has been publicly announced or the electric generating unit or mine is in the process of closing or closed within the last 5 years;

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

(4) persons who were formerly incarcerated.

"Existing emissions" means:

(1) for CO_2e, the total average tons-per-year of CO_2e emitted by the EGU or large GHG-emitting unit either in the years 2018 through 2020 or, if the unit was not yet in operation by January 1, 2018, in the first 3 full years of that unit's operation; and

(2) for any copollutant, the total average tons-per-year of that copollutant emitted by the EGU or large GHG-emitting unit either in the years 2018 through 2020 or, if the unit was not yet in operation by January 1, 2018, in the first 3 full years of that unit's operation.

"Green hydrogen" means a power plant technology in which an EGU creates electric power exclusively from electrolytic hydrogen, in a manner that produces zero carbon and copollutant emissions, using hydrogen fuel that is electrolyzed using a 100% renewable zero carbon emission energy source.

"Large greenhouse gas-emitting unit" or "large GHG-emitting unit" means a unit that is an electric generating unit or other fossil fuel-fired unit that itself has a nameplate capacity or serves a generator that has a nameplate capacity greater than 25 MWe and that produces electricity, including, but not limited to, coal-fired, coal-derived, oil-fired, natural gas-fired, and cogeneration units.

"NO_x emission rate" means the plant annual NO_x total output emission rate as measured by the United States Environmental Protection Agency in its Emissions & Generation Resource Integrated Database (eGrid), or its successor, in the most recent year for which data is available.

"Public greenhouse gas-emitting units" or "public GHG-emitting unit" means large greenhouse gas-emitting units, including EGUs, that are wholly owned, directly or indirectly, by one or more municipalities, municipal corporations, joint municipal electric power agencies, electric cooperatives, or other governmental or nonprofit entities, whether organized and created under the laws of Illinois or another state.

"SO_2 emission rate" means the "plant annual SO_2 total

output emission rate" as measured by the United States Environmental Protection Agency in its Emissions & Generation Resource Integrated Database (eGrid), or its successor, in the most recent year for which data is available.

(g) All EGUs and large greenhouse gas-emitting units that use coal or oil as a fuel and are not public GHG-emitting units shall permanently reduce all CO_2e and copollutant emissions to zero no later than January 1, 2030.

(h) All EGUs and large greenhouse gas-emitting units that use coal as a fuel and are public GHG-emitting units shall permanently reduce CO_2e emissions to zero no later than December 31, 2045. Any source or plant with such units must also reduce their CO_2e emissions by 45% from existing emissions by no later than January 1, 2035. If the emissions reduction requirement is not achieved by December 31, 2035, the plant shall retire one or more units or otherwise reduce its CO_2e emissions by 45% from existing emissions by June 30, 2038.

(i) All EGUs and large greenhouse gas-emitting units that use gas as a fuel and are not public GHG-emitting units shall permanently reduce all CO_2e and copollutant emissions to zero, including through unit retirement or the use of 100% green hydrogen or other similar technology that is commercially proven to achieve zero carbon emissions, according to the following:

(1) No later than January 1, 2030: all EGUs and large

greenhouse gas-emitting units that have a NO_x emissions rate of greater than 0.12 lbs/MWh or a SO_2 emission rate of greater than 0.006 lb/MWh, and are located in or within 3 miles of an environmental justice community designated as of January 1, 2021 or an equity investment eligible community.

(2) No later than January 1, 2040: all EGUs and large greenhouse gas-emitting units that have a NO_x emission rate of greater than 0.12 lbs/MWh or a SO_2 emission rate greater than 0.006 lb/MWh, and are not located in or within 3 miles of an environmental justice community designated as of January 1, 2021 or an equity investment eligible community. After January 1, 2035, each such EGU and large greenhouse gas-emitting unit shall reduce its CO_2e emissions by at least 50% from its existing emissions for CO_2e, and shall be limited in operation to, on average, 6 hours or less per day, measured over a calendar year, and shall not run for more than 24 consecutive hours except in emergency conditions, as designated by a Regional Transmission Organization or Independent System Operator.

(3) No later than January 1, 2035: all EGUs and large greenhouse gas-emitting units that began operation prior to the effective date of this amendatory Act of the 102nd General Assembly and have a NO_x emission rate of less than or equal to 0.12 lb/MWh and a SO_2 emission rate less than or equal to 0.006 lb/MWh, and are located in or within 3

miles of an environmental justice community designated as of January 1, 2021 or an equity investment eligible community. Each such EGU and large greenhouse gas-emitting unit shall reduce its CO_2e emissions by at least 50% from its existing emissions for CO_2e no later than January 1, 2030.

(4) No later than January 1, 2040: All remaining EGUs and large greenhouse gas-emitting units that have a heat rate greater than or equal to 7000 BTU/kWh. Each such EGU and Large greenhouse gas-emitting unit shall reduce its CO_2e emissions by at least 50% from its existing emissions for CO_2e no later than January 1, 2035.

(5) No later than January 1, 2045: all remaining EGUs and large greenhouse gas-emitting units.

(j) All EGUs and large greenhouse gas-emitting units that use gas as a fuel and are public GHG-emitting units shall permanently reduce all CO_2e and copollutant emissions to zero, including through unit retirement or the use of 100% green hydrogen or other similar technology that is commercially proven to achieve zero carbon emissions by January 1, 2045.

(k) All EGUs and large greenhouse gas-emitting units that utilize combined heat and power or cogeneration technology shall permanently reduce all CO_2e and copollutant emissions to zero, including through unit retirement or the use of 100% green hydrogen or other similar technology that is commercially proven to achieve zero carbon emissions by

January 1, 2045.

(k-5) No EGU or large greenhouse gas-emitting unit that uses gas as a fuel and is not a public GHG-emitting unit may emit, in any 12-month period, CO_2e or copollutants in excess of that unit's existing emissions for those pollutants.

(l) Notwithstanding subsections (g) through (k-5), large GHG-emitting units including EGUs may temporarily continue emitting CO_2e and copollutants after any applicable deadline specified in any of subsections (g) through (k-5) if it has been determined, as described in paragraphs (1) and (2) of this subsection, that ongoing operation of the EGU is necessary to maintain power grid supply and reliability or ongoing operation of large GHG-emitting unit that is not an EGU is necessary to serve as an emergency backup to operations. Up to and including the occurrence of an emission reduction deadline under subsection (i), all EGUs and large GHG-emitting units must comply with the following terms:

(1) if an EGU or large GHG-emitting unit that is a participant in a regional transmission organization intends to retire, it must submit documentation to the appropriate regional transmission organization by the appropriate deadline that meets all applicable regulatory requirements necessary to obtain approval to permanently cease operating the large GHG-emitting unit;

(2) if any EGU or large GHG-emitting unit that is a participant in a regional transmission organization

receives notice that the regional transmission organization has determined that continued operation of the unit is required, the unit may continue operating until the issue identified by the regional transmission organization is resolved. The owner or operator of the unit must cooperate with the regional transmission organization in resolving the issue and must reduce its emissions to zero, consistent with the requirements under subsection (g), (h), (i), (j), (k), or (k-5), as applicable, as soon as practicable when the issue identified by the regional transmission organization is resolved; and

(3) any large GHG-emitting unit that is not a participant in a regional transmission organization shall be allowed to continue emitting CO_2e and copollutants after the zero-emission date specified in subsection (g), (h), (i), (j), (k), or (k-5), as applicable, in the capacity of an emergency backup unit if approved by the Illinois Commerce Commission.

(m) No variance, adjusted standard, or other regulatory relief otherwise available in this Act may be granted to the emissions reduction and elimination obligations in this Section.

(n) By June 30 of each year, beginning in 2025, the Agency shall prepare and publish on its website a report setting forth the actual greenhouse gas emissions from individual

units and the aggregate statewide emissions from all units for the prior year.

(o) Every 5 years beginning in 2025, the Environmental Protection Agency, Illinois Power Agency, and Illinois Commerce Commission shall jointly prepare, and release publicly, a report to the General Assembly that examines the State's current progress toward its renewable energy resource development goals, the status of CO_2e and copollutant emissions reductions, the current status and progress toward developing and implementing green hydrogen technologies, the current and projected status of electric resource adequacy and reliability throughout the State for the period beginning 5 years ahead, and proposed solutions for any findings. The Environmental Protection Agency, Illinois Power Agency, and Illinois Commerce Commission shall consult PJM Interconnection, LLC and Midcontinent Independent System Operator, Inc., or their respective successor organizations regarding forecasted resource adequacy and reliability needs, anticipated new generation interconnection, new transmission development or upgrades, and any announced large GHG-emitting unit closure dates and include this information in the report. The report shall be released publicly by no later than December 15 of the year it is prepared. If the Environmental Protection Agency, Illinois Power Agency, and Illinois Commerce Commission jointly conclude in the report that the data from the regional grid operators, the pace of renewable

energy development, the pace of development of energy storage and demand response utilization, transmission capacity, and the CO_2e and copollutant emissions reductions required by subsection (i) or (k-5) reasonably demonstrate that a resource adequacy shortfall will occur, including whether there will be sufficient in-state capacity to meet the zonal requirements of MISO Zone 4 or the PJM ComEd Zone, per the requirements of the regional transmission organizations, or that the regional transmission operators determine that a reliability violation will occur during the time frame the study is evaluating, then the Illinois Power Agency, in conjunction with the Environmental Protection Agency shall develop a plan to reduce or delay CO_2e and copollutant emissions reductions requirements only to the extent and for the duration necessary to meet the resource adequacy and reliability needs of the State, including allowing any plants whose emission reduction deadline has been identified in the plan as creating a reliability concern to continue operating, including operating with reduced emissions or as emergency backup where appropriate. The plan shall also consider the use of renewable energy, energy storage, demand response, transmission development, or other strategies to resolve the identified resource adequacy shortfall or reliability violation.

(1) In developing the plan, the Environmental Protection Agency and the Illinois Power Agency shall hold at least one workshop open to, and accessible at a time and

place convenient to, the public and shall consider any comments made by stakeholders or the public. Upon development of the plan, copies of the plan shall be posted and made publicly available on the Environmental Protection Agency's, the Illinois Power Agency's, and the Illinois Commerce Commission's websites. All interested parties shall have 60 days following the date of posting to provide comment to the Environmental Protection Agency and the Illinois Power Agency on the plan. All comments submitted to the Environmental Protection Agency and the Illinois Power Agency shall be encouraged to be specific, supported by data or other detailed analyses, and, if objecting to all or a portion of the plan, accompanied by specific alternative wording or proposals. All comments shall be posted on the Environmental Protection Agency's, the Illinois Power Agency's, and the Illinois Commerce Commission's websites. Within 30 days following the end of the 60-day review period, the Environmental Protection Agency and the Illinois Power Agency shall revise the plan as necessary based on the comments received and file its revised plan with the Illinois Commerce Commission for approval.

(2) Within 60 days after the filing of the revised plan at the Illinois Commerce Commission, any person objecting to the plan shall file an objection with the Illinois Commerce Commission. Within 30 days after the

expiration of the comment period, the Illinois Commerce Commission shall determine whether an evidentiary hearing is necessary. The Illinois Commerce Commission shall also host 3 public hearings within 90 days after the plan is filed. Following the evidentiary and public hearings, the Illinois Commerce Commission shall enter its order approving or approving with modifications the reliability mitigation plan within 180 days.

(3) The Illinois Commerce Commission shall only approve the plan if the Illinois Commerce Commission determines that it will resolve the resource adequacy or reliability deficiency identified in the reliability mitigation plan at the least amount of CO_2e and copollutant emissions, taking into consideration the emissions impacts on environmental justice communities, and that it will ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account the impact of increases in emissions.

(4) If the resource adequacy or reliability deficiency identified in the reliability mitigation plan is resolved or reduced, the Environmental Protection Agency and the Illinois Power Agency may file an amended plan adjusting the reduction or delay in CO_2e and copollutant emission reduction requirements identified in the plan.

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

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

Sec. 9.15. Greenhouse gases.

(a) An air pollution construction permit shall not be required due to emissions of greenhouse gases if the equipment, site, or source is not subject to regulation, as defined by 40 CFR 52.21, as now or hereafter amended, for greenhouse gases or is otherwise not addressed in this Section or by the Board in regulations for greenhouse gases. These exemptions do not relieve an owner or operator from the obligation to comply with other applicable rules or regulations.

(b) An air pollution operating permit shall not be required due to emissions of greenhouse gases if the equipment, site, or source is not subject to regulation, as defined by Section 39.5 of this Act, for greenhouse gases or is otherwise not addressed in this Section or by the Board in regulations for greenhouse gases. These exemptions do not relieve an owner or operator from the obligation to comply with other applicable rules or regulations.

(c) (Blank).

(d) (Blank).

(e) (Blank).

(f) As used in this Section:

"Carbon dioxide emission" means the plant annual CO_2 total output emission as measured by the United States Environmental

Protection Agency in its Emissions & Generation Resource Integrated Database (eGrid), or its successor.

"Carbon dioxide equivalent emissions" or "CO_2e" means the sum total of the mass amount of emissions in tons per year, calculated by multiplying the mass amount of each of the 6 greenhouse gases specified in Section 3.207, in tons per year, by its associated global warming potential as set forth in 40 CFR 98, subpart A, table A-1 or its successor, and then adding them all together.

"Cogeneration" or "combined heat and power" refers to any system that, either simultaneously or sequentially, produces electricity and useful thermal energy from a single fuel source.

"Copollutants" refers to the 6 criteria pollutants that have been identified by the United States Environmental Protection Agency pursuant to the Clean Air Act.

"Electric generating unit" or "EGU" means a fossil fuel-fired stationary boiler, combustion turbine, or combined cycle system that serves a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale.

"Environmental justice community" means the definition of that term based on existing methodologies and findings, used and as may be updated by the Illinois Power Agency and its program administrator in the Illinois Solar for All Program.

"Equity investment eligible community" or "eligible

community" means the geographic areas throughout Illinois that would most benefit from equitable investments by the State designed to combat discrimination and foster sustainable economic growth. Specifically, eligible community means the following areas:

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

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

"Equity investment eligible person" or "eligible person" means the persons who would most benefit from equitable investments by the State designed to combat discrimination and foster sustainable economic growth. Specifically, eligible person means the following people:

(1) persons whose primary residence is in an equity investment eligible community;

(2) persons whose primary residence is in a municipality, or a county with a population under 100,000, where the closure of an electric generating unit or mine

has been publicly announced or the electric generating unit or mine is in the process of closing or closed within the last 5 years;

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

(4) persons who were formerly incarcerated.

"Existing emissions" means:

(1) for CO_2e, the total average tons-per-year of CO_2e emitted by the EGU or large GHG-emitting unit either in the years 2018 through 2020 or, if the unit was not yet in operation by January 1, 2018, in the first 3 full years of that unit's operation; and

(2) for any copollutant, the total average tons-per-year of that copollutant emitted by the EGU or large GHG-emitting unit either in the years 2018 through 2020 or, if the unit was not yet in operation by January 1, 2018, in the first 3 full years of that unit's operation.

"Green hydrogen" means a power plant technology in which an EGU creates electric power exclusively from electrolytic hydrogen, in a manner that produces zero carbon and copollutant emissions, using hydrogen fuel that is electrolyzed using a 100% renewable zero carbon emission energy source.

"Large greenhouse gas-emitting unit" or "large GHG-emitting unit" means a unit that is an electric generating unit or other fossil fuel-fired unit that itself has a

nameplate capacity or serves a generator that has a nameplate capacity greater than 25 MWe and that produces electricity, including, but not limited to, coal-fired, coal-derived, oil-fired, natural gas-fired, and cogeneration units.

"NO_x emission rate" means the plant annual NO_x total output emission rate as measured by the United States Environmental Protection Agency in its Emissions & Generation Resource Integrated Database (eGrid), or its successor, in the most recent year for which data is available.

"Public greenhouse gas-emitting units" or "public GHG-emitting unit" means large greenhouse gas-emitting units, including EGUs, that are wholly owned, directly or indirectly, by one or more municipalities, municipal corporations, joint municipal electric power agencies, electric cooperatives, or other governmental or nonprofit entities, whether organized and created under the laws of Illinois or another state.

"SO_2 emission rate" means the "plant annual SO_2 total output emission rate" as measured by the United States Environmental Protection Agency in its Emissions & Generation Resource Integrated Database (eGrid), or its successor, in the most recent year for which data is available.

(g) All EGUs and large greenhouse gas-emitting units that use coal or oil as a fuel and are not public GHG-emitting units shall permanently reduce all CO_2e and copollutant emissions to zero no later than January 1, 2040, or earlier if certified by the Illinois Commerce Commission as cost-effective under a

market-driven analysis under Section Public Utilities Act ~~2030~~.

(h) All EGUs and large greenhouse gas-emitting units that use coal as a fuel and are public GHG-emitting units shall permanently reduce CO_2e emissions to zero no later than December 31, 2055, or earlier if certified by the Illinois Commerce Commission as cost-effective under a market-driven analysis analysis under Section Public Utilities Act ~~2045~~. Any source or plant with such units must also reduce their CO_2e emissions by 45% from existing emissions by no later than January 1, 2035. If the emissions reduction requirement is not achieved by December 31, 2045, or earlier if certified by the Illinois Commerce Commission as cost-effective under a market-driven analysis panalysis under Section Public Utilities Act ~~2035~~, the plant shall retire one or more units or otherwise reduce its CO_2e emissions by 45% from existing emissions by June 30, 2048 ~~2038~~.

(i) All EGUs and large greenhouse gas-emitting units that use gas as a fuel and are not public GHG-emitting units shall permanently reduce all CO_2e and copollutant emissions to zero, including through unit retirement or the use of 100% green hydrogen or other similar technology that is commercially proven to achieve zero carbon emissions, according to the following:

(1) No later than January 1, 2030: all EGUs and large greenhouse gas-emitting units that have a NO_x emissions

rate of greater than 0.12 lbs/MWh or a SO_2 emission rate of greater than 0.006 lb/MWh, and are located in or within 3 miles of an environmental justice community designated as of January 1, 2021 or an equity investment eligible community.

(2) No later than January 1, 2050 or earlier if certified by the Illinois Commerce Commission as cost-effective under a market-driven analysis analysis under Section Public Utilities Act ~~2040~~: all EGUs and large greenhouse gas-emitting units that have a NO_x emission rate of greater than 0.12 lbs/MWh or a SO_2 emission rate greater than 0.006 lb/MWh, and are not located in or within 3 miles of an environmental justice community designated as of January 1, 2021 or an equity investment eligible community. After January 1, 2035, each such EGU and large greenhouse gas-emitting unit shall reduce its CO_2e emissions by at least 50% from its existing emissions for CO_2e, and shall be limited in operation to, on average, 6 hours or less per day, measured over a calendar year, and shall not run for more than 24 consecutive hours except in emergency conditions, as designated by a Regional Transmission Organization or Independent System Operator.

(3) No later than January 1, 2035: all EGUs and large greenhouse gas-emitting units that began operation prior to the effective date of this amendatory Act of the 102nd

General Assembly and have a NO_x emission rate of less than or equal to 0.12 lb/MWh and a SO_2 emission rate less than or equal to 0.006 lb/MWh, and are located in or within 3 miles of an environmental justice community designated as of January 1, 2021 or an equity investment eligible community. Each such EGU and large greenhouse gas-emitting unit shall reduce its CO_2e emissions by at least 50% from its existing emissions for CO_2e no later than January 1, 2030.

(4) No later than January 1, 2040: All remaining EGUs and large greenhouse gas-emitting units that have a heat rate greater than or equal to 7000 BTU/kWh. Each such EGU and Large greenhouse gas-emitting unit shall reduce its CO_2e emissions by at least 50% from its existing emissions for CO_2e no later than January 1, 2035.

(5) No later than January 1, 2055 or earlier if certified by the Illinois Commerce Commission as cost-effective under a market-driven analysis analysis under Section Public Utilities Act ~~2045~~: all remaining EGUs and large greenhouse gas-emitting units.

(j) All EGUs and large greenhouse gas-emitting units that use gas as a fuel and are public GHG-emitting units shall permanently reduce all CO_2e and copollutant emissions to zero, including through unit retirement or the use of 100% green hydrogen or other similar technology that is commercially proven to achieve zero carbon emissions by January 1, 2045.

(k) All EGUs and large greenhouse gas-emitting units that utilize combined heat and power or cogeneration technology shall permanently reduce all CO_2e and copollutant emissions to zero, including through unit retirement or the use of 100% green hydrogen or other similar technology that is commercially proven to achieve zero carbon emissions by January 1, 2045.

(k-5) No EGU or large greenhouse gas-emitting unit that uses gas as a fuel and is not a public GHG-emitting unit may emit, in any 12-month period, CO_2e or copollutants in excess of that unit's existing emissions for those pollutants.

(l) Notwithstanding subsections (g) through (k-5), large GHG-emitting units including EGUs may temporarily continue emitting CO_2e and copollutants after any applicable deadline specified in any of subsections (g) through (k-5) if it has been determined, as described in paragraphs (1) and (2) of this subsection, that ongoing operation of the EGU is necessary to maintain power grid supply and reliability or ongoing operation of large GHG-emitting unit that is not an EGU is necessary to serve as an emergency backup to operations. Up to and including the occurrence of an emission reduction deadline under subsection (i), all EGUs and large GHG-emitting units must comply with the following terms:

(1) if an EGU or large GHG-emitting unit that is a participant in a regional transmission organization intends to retire, it must submit documentation to the

appropriate regional transmission organization by the appropriate deadline that meets all applicable regulatory requirements necessary to obtain approval to permanently cease operating the large GHG-emitting unit;

(2) if any EGU or large GHG-emitting unit that is a participant in a regional transmission organization receives notice that the regional transmission organization has determined that continued operation of the unit is required, the unit may continue operating until the issue identified by the regional transmission organization is resolved. The owner or operator of the unit must cooperate with the regional transmission organization in resolving the issue and must reduce its emissions to zero, consistent with the requirements under subsection (g), (h), (i), (j), (k), or (k-5), as applicable, as soon as practicable when the issue identified by the regional transmission organization is resolved; and

(3) any large GHG-emitting unit that is not a participant in a regional transmission organization shall be allowed to continue emitting CO_2e and copollutants after the zero-emission date specified in subsection (g), (h), (i), (j), (k), or (k-5), as applicable, in the capacity of an emergency backup unit if approved by the Illinois Commerce Commission.

(m) No variance, adjusted standard, or other regulatory

relief otherwise available in this Act may be granted to the emissions reduction and elimination obligations in this Section.

(n) By June 30 of each year, beginning in 2025, the Agency shall prepare and publish on its website a report setting forth the actual greenhouse gas emissions from individual units and the aggregate statewide emissions from all units for the prior year.

(o) The Environmental Protection Agency, Illinois Power Agency, and Illinois Commerce Commission shall jointly prepare, and release publicly, a report to the General Assembly that examines the State's current progress toward its renewable energy resource development goals, the status of CO_2e and copollutant emissions reductions, the current status and progress toward developing and implementing green hydrogen technologies, the current and projected status of electric resource adequacy and reliability throughout the State for the period beginning 5 years ahead, and proposed solutions for any findings. The Environmental Protection Agency, Illinois Power Agency, and Illinois Commerce Commission shall consult PJM Interconnection, LLC and Midcontinent Independent System Operator, Inc., or their respective successor organizations regarding forecasted resource adequacy and reliability needs, anticipated new generation interconnection, new transmission development or upgrades, and any announced large GHG-emitting unit closure dates and include this information in the report.

The report shall be released publicly by no later than December 15 of the year it is prepared. If the Environmental Protection Agency, Illinois Power Agency, and Illinois Commerce Commission jointly conclude in the report that the data from the regional grid operators, the pace of renewable energy development, the pace of development of energy storage and demand response utilization, transmission capacity, and the CO_2e and copollutant emissions reductions required by subsection (i) or (k-5) reasonably demonstrate that a resource adequacy shortfall will occur, including whether there will be sufficient in-state capacity to meet the zonal requirements of MISO Zone 4 or the PJM ComEd Zone, per the requirements of the regional transmission organizations, or that the regional transmission operators determine that a reliability violation will occur during the time frame the study is evaluating, then the Illinois Power Agency, in conjunction with the Environmental Protection Agency shall develop a plan to reduce or delay CO_2e and copollutant emissions reductions requirements only to the extent and for the duration necessary to meet the resource adequacy and reliability needs of the State, including allowing any plants whose emission reduction deadline has been identified in the plan as creating a reliability concern to continue operating, including operating with reduced emissions or as emergency backup where appropriate. The plan shall also consider the use of renewable energy, energy storage, demand response, transmission

development, or other strategies to resolve the identified resource adequacy shortfall or reliability violation.

(1) In developing the plan, the Environmental Protection Agency and the Illinois Power Agency shall hold at least one workshop open to, and accessible at a time and place convenient to, the public and shall consider any comments made by stakeholders or the public. Upon development of the plan, copies of the plan shall be posted and made publicly available on the Environmental Protection Agency's, the Illinois Power Agency's, and the Illinois Commerce Commission's websites. All interested parties shall have 60 days following the date of posting to provide comment to the Environmental Protection Agency and the Illinois Power Agency on the plan. All comments submitted to the Environmental Protection Agency and the Illinois Power Agency shall be encouraged to be specific, supported by data or other detailed analyses, and, if objecting to all or a portion of the plan, accompanied by specific alternative wording or proposals. All comments shall be posted on the Environmental Protection Agency's, the Illinois Power Agency's, and the Illinois Commerce Commission's websites. Within 30 days following the end of the 60-day review period, the Environmental Protection Agency and the Illinois Power Agency shall revise the plan as necessary based on the comments received and file its revised plan with the Illinois Commerce Commission for

approval.

(2) Within 60 days after the filing of the revised plan at the Illinois Commerce Commission, any person objecting to the plan shall file an objection with the Illinois Commerce Commission. Within 30 days after the expiration of the comment period, the Illinois Commerce Commission shall determine whether an evidentiary hearing is necessary. The Illinois Commerce Commission shall also host 3 public hearings within 90 days after the plan is filed. Following the evidentiary and public hearings, the Illinois Commerce Commission shall enter its order approving or approving with modifications the reliability mitigation plan within 180 days.

(3) The Illinois Commerce Commission shall only approve the plan if the Illinois Commerce Commission determines that it will resolve the resource adequacy or reliability deficiency identified in the reliability mitigation plan at the least amount of CO_2e and copollutant emissions, taking into consideration the emissions impacts on environmental justice communities, and that it will ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account the impact of increases in emissions.

(4) If the resource adequacy or reliability deficiency identified in the reliability mitigation plan is resolved

or reduced, the Environmental Protection Agency and the Illinois Power Agency may file an amended plan adjusting the reduction or delay in CO_2e and copollutant emission reduction requirements identified in the plan.

(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.