

1 AN ACT concerning State government.

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

4 Section 5. The Illinois Power Agency Act is amended by
5 changing Section 1-75 as follows:

6 (20 ILCS 3855/1-75)

7 Sec. 1-75. Planning and Procurement Bureau. The Planning
8 and Procurement Bureau has the following duties and
9 responsibilities:

10 (a) The Planning and Procurement Bureau shall each year,
11 beginning in 2008, develop procurement plans and conduct
12 competitive procurement processes in accordance with the
13 requirements of Section 16-111.5 of the Public Utilities Act
14 for the eligible retail customers of electric utilities that on
15 December 31, 2005 provided electric service to at least 100,000
16 customers in Illinois. Beginning with the delivery year
17 commencing on June 1, 2017, the Planning and Procurement Bureau
18 shall develop plans and processes for the procurement of zero
19 emission credits from zero emission facilities in accordance
20 with the requirements of subsection (d-5) of this Section. The
21 Planning and Procurement Bureau shall also develop procurement
22 plans and conduct competitive procurement processes in
23 accordance with the requirements of Section 16-111.5 of the

1 Public Utilities Act for the eligible retail customers of small
2 multi-jurisdictional electric utilities that (i) on December
3 31, 2005 served less than 100,000 customers in Illinois and
4 (ii) request a procurement plan for their Illinois
5 jurisdictional load. This Section shall not apply to a small
6 multi-jurisdictional utility until such time as a small
7 multi-jurisdictional utility requests the Agency to prepare a
8 procurement plan for their Illinois jurisdictional load. For
9 the purposes of this Section, the term "eligible retail
10 customers" has the same definition as found in Section
11 16-111.5(a) of the Public Utilities Act.

12 Beginning with the plan or plans to be implemented in the
13 2017 delivery year, the Agency shall no longer include the
14 procurement of renewable energy resources in the annual
15 procurement plans required by this subsection (a), except as
16 provided in subsection (q) of Section 16-111.5 of the Public
17 Utilities Act, and shall instead develop a long-term renewable
18 resources procurement plan in accordance with subsection (c) of
19 this Section and Section 16-111.5 of the Public Utilities Act.

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

26 (A) direct previous experience assembling

1 large-scale power supply plans or portfolios for
2 end-use customers;

3 (B) an advanced degree in economics, mathematics,
4 engineering, risk management, or a related area of
5 study;

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

8 (D) expertise in wholesale electricity market
9 rules, including those established by the Federal
10 Energy Regulatory Commission and regional transmission
11 organizations;

12 (E) expertise in credit protocols and familiarity
13 with contract protocols;

14 (F) adequate resources to perform and fulfill the
15 required functions and responsibilities; and

16 (G) the absence of a conflict of interest and
17 inappropriate bias for or against potential bidders or
18 the affected electric utilities.

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

25 (A) direct previous experience administering a
26 large-scale competitive procurement process;

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

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

5 (D) expertise in wholesale electricity market
6 rules, including those established by the Federal
7 Energy Regulatory Commission and regional transmission
8 organizations;

9 (E) expertise in credit and contract protocols;

10 (F) adequate resources to perform and fulfill the
11 required functions and responsibilities; and

12 (G) the absence of a conflict of interest and
13 inappropriate bias for or against potential bidders or
14 the affected electric utilities.

15 (3) The Agency shall provide affected utilities and
16 other interested parties with the lists of qualified
17 experts or expert consulting firms identified through the
18 request for qualifications processes that are under
19 consideration to develop the procurement plans and to serve
20 as the procurement administrator. The Agency shall also
21 provide each qualified expert's or expert consulting
22 firm's response to the request for qualifications. All
23 information provided under this subparagraph shall also be
24 provided to the Commission. The Agency may provide by rule
25 for fees associated with supplying the information to
26 utilities and other interested parties. These parties

1 shall, within 5 business days, notify the Agency in writing
2 if they object to any experts or expert consulting firms on
3 the lists. Objections shall be based on:

4 (A) failure to satisfy qualification criteria;

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

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

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

18 (4) The Agency shall issue requests for proposals to
19 the qualified experts or expert consulting firms to develop
20 a procurement plan for the affected utilities and to serve
21 as procurement administrator.

22 (5) The Agency shall select an expert or expert
23 consulting firm to develop procurement plans based on the
24 proposals submitted and shall award contracts of up to 5
25 years to those selected.

26 (6) The Agency shall select an expert or expert

1 consulting firm, with approval of the Commission, to serve
2 as procurement administrator based on the proposals
3 submitted. If the Commission rejects, within 5 days, the
4 Agency's selection, the Agency shall submit another
5 recommendation within 3 days based on the proposals
6 submitted. The Agency shall award a 5-year contract to the
7 expert or expert consulting firm so selected with
8 Commission approval.

9 (b) The experts or expert consulting firms retained by the
10 Agency shall, as appropriate, prepare procurement plans, and
11 conduct a competitive procurement process as prescribed in
12 Section 16-111.5 of the Public Utilities Act, to ensure
13 adequate, reliable, affordable, efficient, and environmentally
14 sustainable electric service at the lowest total cost over
15 time, taking into account any benefits of price stability, for
16 eligible retail customers of electric utilities that on
17 December 31, 2005 provided electric service to at least 100,000
18 customers in the State of Illinois, and for eligible Illinois
19 retail customers of small multi-jurisdictional electric
20 utilities that (i) on December 31, 2005 served less than
21 100,000 customers in Illinois and (ii) request a procurement
22 plan for their Illinois jurisdictional load.

23 (c) Renewable portfolio standard.

24 (1) (A) The Agency shall develop a long-term renewable
25 resources procurement plan that shall include procurement
26 programs and competitive procurement events necessary to

1 meet the goals set forth in this subsection (c). The
2 initial long-term renewable resources procurement plan
3 shall be released for comment no later than 160 days after
4 June 1, 2017 (the effective date of Public Act 99-906). The
5 Agency shall review, and may revise on an expedited basis,
6 the long-term renewable resources procurement plan at
7 least every 2 years, which shall be conducted in
8 conjunction with the procurement plan under Section
9 16-111.5 of the Public Utilities Act to the extent
10 practicable to minimize administrative expense. The
11 long-term renewable resources procurement plans shall be
12 subject to review and approval by the Commission under
13 Section 16-111.5 of the Public Utilities Act.

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

1 described in items (i) through (iii) of subparagraph (C) of
2 this paragraph (1) over the annual percentage targets
3 described in this subparagraph (B).

4 For the delivery year beginning June 1, 2017, the
5 procurement plan shall include cost-effective renewable
6 energy resources equal to at least 13% of each utility's
7 load for eligible retail customers and 13% of the
8 applicable portion of each utility's load for retail
9 customers who are not eligible retail customers, which
10 applicable portion shall equal 50% of the utility's load
11 for retail customers who are not eligible retail customers
12 on February 28, 2017.

13 For the delivery year beginning June 1, 2018, the
14 procurement plan shall include cost-effective renewable
15 energy resources equal to at least 14.5% of each utility's
16 load for eligible retail customers and 14.5% of the
17 applicable portion of each utility's load for retail
18 customers who are not eligible retail customers, which
19 applicable portion shall equal 75% of the utility's load
20 for retail customers who are not eligible retail customers
21 on February 28, 2017.

22 For the delivery year beginning June 1, 2019, and for
23 each year thereafter, the procurement plans shall include
24 cost-effective renewable energy resources equal to a
25 minimum percentage of each utility's load for all retail
26 customers as follows: 16% by June 1, 2019; increasing by

1 1.5% each year thereafter to 25% by June 1, 2025; and 25%
2 by June 1, 2026 and each year thereafter.

3 For each delivery year, the Agency shall first
4 recognize each utility's obligations for that delivery
5 year under existing contracts. Any renewable energy
6 credits under existing contracts, including renewable
7 energy credits as part of renewable energy resources, shall
8 be used to meet the goals set forth in this subsection (c)
9 for the delivery year.

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

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

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

20 At least 2,000,000 renewable energy credits
21 for each delivery year shall come from new
22 photovoltaic projects; of that amount, to the
23 extent possible, the Agency shall procure: at
24 least 50% from solar photovoltaic projects using
25 the program outlined in subparagraph (K) of this
26 paragraph (1) from distributed renewable energy

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

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

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

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

1 paragraph (1).

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

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

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

21 For purposes of this Section:

22 "New wind projects" means wind renewable
23 energy facilities that are energized after June 1,
24 2017 for the delivery year commencing June 1, 2017
25 or within 3 years after the date the Commission
26 approves contracts for subsequent delivery years.

1 "New photovoltaic projects" means photovoltaic
2 renewable energy facilities that are energized
3 after June 1, 2017. Photovoltaic projects
4 developed under Section 1-56 of this Act shall not
5 apply towards the new photovoltaic project
6 requirements in this subparagraph (C).

7 (D) Renewable energy credits shall be cost effective.
8 For purposes of this subsection (c), "cost effective" means
9 that the costs of procuring renewable energy resources do
10 not cause the limit stated in subparagraph (E) of this
11 paragraph (1) to be exceeded and, for renewable energy
12 credits procured through a competitive procurement event,
13 do not exceed benchmarks based on market prices for like
14 products in the region. For purposes of this subsection
15 (c), "like products" means contracts for renewable energy
16 credits from the same or substantially similar technology,
17 same or substantially similar vintage (new or existing),
18 the same or substantially similar quantity, and the same or
19 substantially similar contract length and structure.
20 Benchmarks shall be developed by the procurement
21 administrator, in consultation with the Commission staff,
22 Agency staff, and the procurement monitor and shall be
23 subject to Commission review and approval. If price
24 benchmarks for like products in the region are not
25 available, the procurement administrator shall establish
26 price benchmarks based on publicly available data on

1 regional technology costs and expected current and future
2 regional energy prices. The benchmarks in this Section
3 shall not be used to curtail or otherwise reduce
4 contractual obligations entered into by or through the
5 Agency prior to June 1, 2017 (the effective date of Public
6 Act 99-906).

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

1 taxes.

2 Notwithstanding the requirements of this subsection
3 (c), the total of renewable energy resources procured under
4 the procurement plan for any single year shall be subject
5 to the limitations of this subparagraph (E). Such
6 procurement shall be reduced for all retail customers based
7 on the amount necessary to limit the annual estimated
8 average net increase due to the costs of these resources
9 included in the amounts paid by eligible retail customers
10 in connection with electric service to no more than the
11 greater of 2.015% of the amount paid per kilowatthour by
12 those customers during the year ending May 31, 2007 or the
13 incremental amount per kilowatthour paid for these
14 resources in 2011. To arrive at a maximum dollar amount of
15 renewable energy resources to be procured for the
16 particular delivery year, the resulting per kilowatthour
17 amount shall be applied to the actual amount of
18 kilowatthours of electricity delivered, or applicable
19 portion of such amount as specified in paragraph (1) of
20 this subsection (c), as applicable, by the electric utility
21 in the delivery year immediately prior to the procurement
22 to all retail customers in its service territory. The
23 calculations required by this subparagraph (E) shall be
24 made only once for each delivery year at the time that the
25 renewable energy resources are procured. Once the
26 determination as to the amount of renewable energy

1 resources to procure is made based on the calculations set
2 forth in this subparagraph (E) and the contracts procuring
3 those amounts are executed, no subsequent rate impact
4 determinations shall be made and no adjustments to those
5 contract amounts shall be allowed. All costs incurred under
6 such contracts shall be fully recoverable by the electric
7 utility as provided in this Section.

8 (F) If the limitation on the amount of renewable energy
9 resources procured in subparagraph (E) of this paragraph
10 (1) prevents the Agency from meeting all of the goals in
11 this subsection (c), the Agency's long-term plan shall
12 prioritize compliance with the requirements of this
13 subsection (c) regarding renewable energy credits in the
14 following order:

15 (i) renewable energy credits under existing
16 contractual obligations;

17 (i-5) funding for the Illinois Solar for All
18 Program, as described in subparagraph (O) of this
19 paragraph (1);

20 (ii) renewable energy credits necessary to comply
21 with the new wind and new photovoltaic procurement
22 requirements described in items (i) through (iii) of
23 subparagraph (C) of this paragraph (1); and

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

26 (G) The following provisions shall apply to the

1 Agency's procurement of renewable energy credits under
2 this subsection (c):

3 (i) Notwithstanding whether a long-term renewable
4 resources procurement plan has been approved, the
5 Agency shall conduct an initial forward procurement
6 for renewable energy credits from new utility-scale
7 wind projects within 160 days after June 1, 2017 (the
8 effective date of Public Act 99-906). For the purposes
9 of this initial forward procurement, the Agency shall
10 solicit 15-year contracts for delivery of 1,000,000
11 renewable energy credits delivered annually from new
12 utility-scale wind projects to begin delivery on June
13 1, 2019, if available, but not later than June 1, 2021,
14 unless the project has delays in the establishment of
15 an operating interconnection with the applicable
16 transmission or distribution system as a result of the
17 actions or inactions of the transmission or
18 distribution provider, or other causes for force
19 majeure as outlined in the procurement contract, in
20 which case, not later than June 1, 2022. Payments to
21 suppliers of renewable energy credits shall commence
22 upon delivery. Renewable energy credits procured under
23 this initial procurement shall be included in the
24 Agency's long-term plan and shall apply to all
25 renewable energy goals in this subsection (c).

26 (ii) Notwithstanding whether a long-term renewable

1 resources procurement plan has been approved, the
2 Agency shall conduct an initial forward procurement
3 for renewable energy credits from new utility-scale
4 solar projects and brownfield site photovoltaic
5 projects within one year after June 1, 2017 (the
6 effective date of Public Act 99-906). For the purposes
7 of this initial forward procurement, the Agency shall
8 solicit 15-year contracts for delivery of 1,000,000
9 renewable energy credits delivered annually from new
10 utility-scale solar projects and brownfield site
11 photovoltaic projects to begin delivery on June 1,
12 2019, if available, but not later than June 1, 2021,
13 unless the project has delays in the establishment of
14 an operating interconnection with the applicable
15 transmission or distribution system as a result of the
16 actions or inactions of the transmission or
17 distribution provider, or other causes for force
18 majeure as outlined in the procurement contract, in
19 which case, not later than June 1, 2022. The Agency may
20 structure this initial procurement in one or more
21 discrete procurement events. Payments to suppliers of
22 renewable energy credits shall commence upon delivery.
23 Renewable energy credits procured under this initial
24 procurement shall be included in the Agency's
25 long-term plan and shall apply to all renewable energy
26 goals in this subsection (c).

1 (iii) Subsequent forward procurements for
2 utility-scale wind projects shall solicit at least
3 1,000,000 renewable energy credits delivered annually
4 per procurement event and shall be planned, scheduled,
5 and designed such that the cumulative amount of
6 renewable energy credits delivered from all new wind
7 projects in each delivery year shall not exceed the
8 Agency's projection of the cumulative amount of
9 renewable energy credits that will be delivered from
10 all new photovoltaic projects, including utility-scale
11 and distributed photovoltaic devices, in the same
12 delivery year at the time scheduled for wind contract
13 delivery.

14 (iv) If, at any time after the time set for
15 delivery of renewable energy credits pursuant to the
16 initial procurements in items (i) and (ii) of this
17 subparagraph (G), the cumulative amount of renewable
18 energy credits projected to be delivered from all new
19 wind projects in a given delivery year exceeds the
20 cumulative amount of renewable energy credits
21 projected to be delivered from all new photovoltaic
22 projects in that delivery year by 200,000 or more
23 renewable energy credits, then the Agency shall within
24 60 days adjust the procurement programs in the
25 long-term renewable resources procurement plan to
26 ensure that the projected cumulative amount of

1 renewable energy credits to be delivered from all new
2 wind projects does not exceed the projected cumulative
3 amount of renewable energy credits to be delivered from
4 all new photovoltaic projects by 200,000 or more
5 renewable energy credits, provided that nothing in
6 this Section shall preclude the projected cumulative
7 amount of renewable energy credits to be delivered from
8 all new photovoltaic projects from exceeding the
9 projected cumulative amount of renewable energy
10 credits to be delivered from all new wind projects in
11 each delivery year and provided further that nothing in
12 this item (iv) shall require the curtailment of an
13 executed contract. The Agency shall update, on a
14 quarterly basis, its projection of the renewable
15 energy credits to be delivered from all projects in
16 each delivery year. Notwithstanding anything to the
17 contrary, the Agency may adjust the timing of
18 procurement events conducted under this subparagraph
19 (G). The long-term renewable resources procurement
20 plan shall set forth the process by which the
21 adjustments may be made.

22 (v) All procurements under this subparagraph (G)
23 shall comply with the geographic requirements in
24 subparagraph (I) of this paragraph (1) and shall follow
25 the procurement processes and procedures described in
26 this Section and Section 16-111.5 of the Public

1 Utilities Act to the extent practicable, and these
2 processes and procedures may be expedited to
3 accommodate the schedule established by this
4 subparagraph (G).

5 (H) The procurement of renewable energy resources for a
6 given delivery year shall be reduced as described in this
7 subparagraph (H) if an alternative retail electric
8 supplier meets the requirements described in this
9 subparagraph (H).

10 (i) Within 45 days after June 1, 2017 (the
11 effective date of Public Act 99-906), an alternative
12 retail electric supplier or its successor shall submit
13 an informational filing to the Illinois Commerce
14 Commission certifying that, as of December 31, 2015,
15 the alternative retail electric supplier owned one or
16 more electric generating facilities that generates
17 renewable energy resources as defined in Section 1-10
18 of this Act, provided that such facilities are not
19 powered by wind or photovoltaics, and the facilities
20 generate one renewable energy credit for each
21 megawatthour of energy produced from the facility.

22 The informational filing shall identify each
23 facility that was eligible to satisfy the alternative
24 retail electric supplier's obligations under Section
25 16-115D of the Public Utilities Act as described in
26 this item (i).

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

7 (iii) The alternative retail electric supplier
8 shall notify the Agency and the applicable utility, no
9 later than February 28 of the year preceding the
10 applicable delivery year or 15 days after June 1, 2017
11 (the effective date of Public Act 99-906), whichever is
12 later, of its election under item (ii) of this
13 subparagraph (H) to supply renewable energy credits to
14 retail customers of the utility. Such election shall
15 identify the amount of renewable energy credits to be
16 supplied by the alternative retail electric supplier
17 to the utility's retail customers and the source of the
18 renewable energy credits identified in the
19 informational filing as described in item (i) of this
20 subparagraph (H), subject to the following
21 limitations:

22 For the delivery year beginning June 1, 2018,
23 the maximum amount of renewable energy credits to
24 be supplied by an alternative retail electric
25 supplier under this subparagraph (H) shall be 68%
26 multiplied by 25% multiplied by 14.5% multiplied

1 by the amount of metered electricity
2 (megawatt-hours) delivered by the alternative
3 retail electric supplier to Illinois retail
4 customers during the delivery year ending May 31,
5 2016.

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

20 For each delivery year, the total amount of
21 renewable energy credits supplied by all alternative
22 retail electric suppliers under this subparagraph (H)
23 shall not exceed 9% of the Illinois target renewable
24 energy credit quantity. The Illinois target renewable
25 energy credit quantity for the delivery year beginning
26 June 1, 2018 is 14.5% multiplied by the total amount of

1 metered electricity (megawatt-hours) delivered in the
2 delivery year immediately preceding that delivery
3 year, provided that the 14.5% shall increase by 1.5%
4 each delivery year thereafter to 25% by the delivery
5 year beginning June 1, 2025, and thereafter the 25%
6 value shall apply to each delivery year.

7 If the requirements set forth in items (i) through
8 (iii) of this subparagraph (H) are met, the charges
9 that would otherwise be applicable to the retail
10 customers of the alternative retail electric supplier
11 under paragraph (6) of this subsection (c) for the
12 applicable delivery year shall be reduced by the ratio
13 of the quantity of renewable energy credits supplied by
14 the alternative retail electric supplier compared to
15 that supplier's target renewable energy credit
16 quantity. The supplier's target renewable energy
17 credit quantity for the delivery year beginning June 1,
18 2018 is 14.5% multiplied by the total amount of metered
19 electricity (megawatt-hours) delivered by the
20 alternative retail supplier in that delivery year,
21 provided that the 14.5% shall increase by 1.5% each
22 delivery year thereafter to 25% by the delivery year
23 beginning June 1, 2025, and thereafter the 25% value
24 shall apply to each delivery year.

25 On or before April 1 of each year, the Agency shall
26 annually publish a report on its website that

1 identifies the aggregate amount of renewable energy
2 credits supplied by alternative retail electric
3 suppliers under this subparagraph (H).

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

1 and given full effect, the Agency's long-term procurement
2 plan shall describe in detail how each public interest
3 factor shall be considered and weighted for facilities
4 located in states adjacent to Illinois.

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

1 renewable energy credits shall be procured in the next
2 procurement event.

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

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

24 The Adjustable Block program shall include for each
25 category of eligible projects: a schedule of standard block
26 purchase prices to be offered; a series of steps, with

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

26 The Adjustable Block program shall include at least the

1 following block groups in at least the following amounts,
2 which may be adjusted upon review by the Agency and
3 approval by the Commission as described in this
4 subparagraph (K):

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

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

16 (iii) At least 25% from photovoltaic community
17 renewable generation projects.

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

21 The Adjustable Block program shall be designed to
22 ensure that renewable energy credits are procured from
23 photovoltaic distributed renewable energy generation
24 devices and new photovoltaic community renewable energy
25 generation projects in diverse locations and are not
26 concentrated in a few geographic areas.

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

5 (i) The Agency shall procure contracts of at least
6 15 years in length.

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

17 (iii) For those renewable energy credits that
18 qualify and are procured under item (ii) and (iii) of
19 subparagraph (K) of this paragraph (1) and any
20 additional categories of distributed generation
21 included in the long-term renewable resources
22 procurement plan and approved by the Commission, 20
23 percent of the renewable energy credit purchase price
24 shall be paid by the contracting utilities at the time
25 that the facility producing the renewable energy
26 credits is interconnected at the distribution system

1 level of the utility and energized. The remaining
2 portion shall be paid ratably over the subsequent
3 4-year period. The electric utility shall receive and
4 retire all renewable energy credits generated by the
5 project for the first 15 years of operation.

6 (iv) Each contract shall include provisions to
7 ensure the delivery of the renewable energy credits for
8 the full term of the contract.

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

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

26 (vii) Nothing in this Section shall require the

1 utility to advance any payment or pay any amounts that
2 exceed the actual amount of revenues collected by the
3 utility under paragraph (6) of this subsection (c) and
4 subsection (k) of Section 16-108 of the Public
5 Utilities Act, and contracts executed under this
6 Section shall expressly incorporate this limitation.

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

22 The Agency and its consultant or consultants shall
23 monitor block activity, share program activity with
24 stakeholders and conduct regularly scheduled meetings to
25 discuss program activity and market conditions. If
26 necessary, the Agency may make prospective administrative

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

16 (N) The long-term renewable resources procurement plan
17 required by this subsection (c) shall include a community
18 renewable generation program. The Agency shall establish
19 the terms, conditions, and program requirements for
20 community renewable generation projects with a goal to
21 expand renewable energy generating facility access to a
22 broader group of energy consumers, to ensure robust
23 participation opportunities for residential and small
24 commercial customers and those who cannot install
25 renewable energy on their own properties. Any plan approved
26 by the Commission shall allow subscriptions to community

1 renewable generation projects to be portable and
2 transferable. For purposes of this subparagraph (N),
3 "portable" means that subscriptions may be retained by the
4 subscriber even if the subscriber relocates or changes its
5 address within the same utility service territory; and
6 "transferable" means that a subscriber may assign or sell
7 subscriptions to another person within the same utility
8 service territory.

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

14 The Agency shall purchase renewable energy credits
15 from subscribed shares of photovoltaic community renewable
16 generation projects through the Adjustable Block program
17 described in subparagraph (K) of this paragraph (1) or
18 through the Illinois Solar for All Program described in
19 Section 1-56 of this Act. The electric utility shall
20 purchase any unsubscribed energy from community renewable
21 generation projects that are Qualifying Facilities ("QF")
22 under the electric utility's tariff for purchasing the
23 output from QFs under Public Utilities Regulatory Policies
24 Act of 1978.

25 The owners of and any subscribers to a community
26 renewable generation project shall not be considered

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

8 (O) For the delivery year beginning June 1, 2018, the
9 long-term renewable resources procurement plan required by
10 this subsection (c) shall provide for the Agency to procure
11 contracts to continue offering the Illinois Solar for All
12 Program described in subsection (b) of Section 1-56 of this
13 Act, and the contracts approved by the Commission shall be
14 executed by the utilities that are subject to this
15 subsection (c). The long-term renewable resources
16 procurement plan shall allocate 5% of the funds available
17 under the plan for the applicable delivery year, or
18 \$10,000,000 per delivery year, whichever is greater, to
19 fund the programs, and the plan shall determine the amount
20 of funding to be apportioned to the programs identified in
21 subsection (b) of Section 1-56 of this Act; provided that
22 for the delivery years beginning June 1, 2017, June 1,
23 2021, and June 1, 2025, the long-term renewable resources
24 procurement plan shall allocate 10% of the funds available
25 under the plan for the applicable delivery year, or
26 \$20,000,000 per delivery year, whichever is greater, and

1 \$10,000,000 of such funds in such year shall be used by an
2 electric utility that serves more than 3,000,000 retail
3 customers in the State to implement a Commission-approved
4 plan under Section 16-108.12 of the Public Utilities Act.
5 In making the determinations required under this
6 subparagraph (O), the Commission shall consider the
7 experience and performance under the programs and any
8 evaluation reports. The Commission shall also provide for
9 an independent evaluation of those programs on a periodic
10 basis that are funded under this subparagraph (O).

11 (2) (Blank).

12 (3) (Blank).

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

15 (5) Beginning with the 2010 delivery year and ending
16 June 1, 2017, an electric utility subject to this
17 subsection (c) shall apply the lesser of the maximum
18 alternative compliance payment rate or the most recent
19 estimated alternative compliance payment rate for its
20 service territory for the corresponding compliance period,
21 established pursuant to subsection (d) of Section 16-115D
22 of the Public Utilities Act to its retail customers that
23 take service pursuant to the electric utility's hourly
24 pricing tariff or tariffs. The electric utility shall
25 retain all amounts collected as a result of the application
26 of the alternative compliance payment rate or rates to such

1 customers, and, beginning in 2011, the utility shall
2 include in the information provided under item (1) of
3 subsection (d) of Section 16-111.5 of the Public Utilities
4 Act the amounts collected under the alternative compliance
5 payment rate or rates for the prior year ending May 31.
6 Notwithstanding any limitation on the procurement of
7 renewable energy resources imposed by item (2) of this
8 subsection (c), the Agency shall increase its spending on
9 the purchase of renewable energy resources to be procured
10 by the electric utility for the next plan year by an amount
11 equal to the amounts collected by the utility under the
12 alternative compliance payment rate or rates in the prior
13 year ending May 31.

14 (6) The electric utility shall be entitled to recover
15 all of its costs associated with the procurement of
16 renewable energy credits under plans approved under this
17 Section and Section 16-111.5 of the Public Utilities Act.
18 These costs shall include associated reasonable expenses
19 for implementing the procurement programs, including, but
20 not limited to, the costs of administering and evaluating
21 the Adjustable Block program, through an automatic
22 adjustment clause tariff in accordance with subsection (k)
23 of Section 16-108 of the Public Utilities Act.

24 (7) Renewable energy credits procured from new
25 photovoltaic projects or new distributed renewable energy
26 generation devices under this Section after June 1, 2017

1 (the effective date of Public Act 99-906) must be procured
2 from devices installed by a qualified person in compliance
3 with the requirements of Section 16-128A of the Public
4 Utilities Act and any rules or regulations adopted
5 thereunder.

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

16 (d) Clean coal portfolio standard.

17 (1) The procurement plans shall include electricity
18 generated using clean coal. Each utility shall enter into
19 one or more sourcing agreements with the initial clean coal
20 facility, as provided in paragraph (3) of this subsection
21 (d), covering electricity generated by the initial clean
22 coal facility representing at least 5% of each utility's
23 total supply to serve the load of eligible retail customers
24 in 2015 and each year thereafter, as described in paragraph
25 (3) of this subsection (d), subject to the limits specified
26 in paragraph (2) of this subsection (d). It is the goal of

1 the State that by January 1, 2025, 25% of the electricity
2 used in the State shall be generated by cost-effective
3 clean coal facilities. For purposes of this subsection (d),
4 "cost-effective" means that the expenditures pursuant to
5 such sourcing agreements do not cause the limit stated in
6 paragraph (2) of this subsection (d) to be exceeded and do
7 not exceed cost-based benchmarks, which shall be developed
8 to assess all expenditures pursuant to such sourcing
9 agreements covering electricity generated by clean coal
10 facilities, other than the initial clean coal facility, by
11 the procurement administrator, in consultation with the
12 Commission staff, Agency staff, and the procurement
13 monitor and shall be subject to Commission review and
14 approval.

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

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

24 A utility shall be deemed to have complied with the
25 clean coal portfolio standard specified in this subsection
26 (d) if the utility enters into a sourcing agreement as

1 required by this subsection (d).

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

16 Notwithstanding the requirements of this subsection
17 (d), the total amount paid under sourcing agreements with
18 clean coal facilities pursuant to the procurement plan for
19 any given year shall be reduced by an amount necessary to
20 limit the annual estimated average net increase due to the
21 costs of these resources included in the amounts paid by
22 eligible retail customers in connection with electric
23 service to:

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

1 (B) in 2011, the greater of an additional 0.5% of
2 the amount paid per kilowatthour by those customers
3 during the year ending May 31, 2010 or 1% of the amount
4 paid per kilowatthour by those customers during the
5 year ending May 31, 2009;

6 (C) in 2012, the greater of an additional 0.5% of
7 the amount paid per kilowatthour by those customers
8 during the year ending May 31, 2011 or 1.5% of the
9 amount paid per kilowatthour by those customers during
10 the year ending May 31, 2009;

11 (D) in 2013, the greater of an additional 0.5% of
12 the amount paid per kilowatthour by those customers
13 during the year ending May 31, 2012 or 2% of the amount
14 paid per kilowatthour by those customers during the
15 year ending May 31, 2009; and

16 (E) thereafter, the total amount paid under
17 sourcing agreements with clean coal facilities
18 pursuant to the procurement plan for any single year
19 shall be reduced by an amount necessary to limit the
20 estimated average net increase due to the cost of these
21 resources included in the amounts paid by eligible
22 retail customers in connection with electric service
23 to no more than the greater of (i) 2.015% of the amount
24 paid per kilowatthour by those customers during the
25 year ending May 31, 2009 or (ii) the incremental amount
26 per kilowatthour paid for these resources in 2013.

1 These requirements may be altered only as provided by
2 statute.

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

11 (3) Initial clean coal facility. In order to promote
12 development of clean coal facilities in Illinois, each
13 electric utility subject to this Section shall execute a
14 sourcing agreement to source electricity from a proposed
15 clean coal facility in Illinois (the "initial clean coal
16 facility") that will have a nameplate capacity of at least
17 500 MW when commercial operation commences, that has a
18 final Clean Air Act permit on June 1, 2009 (the effective
19 date of Public Act 95-1027), and that will meet the
20 definition of clean coal facility in Section 1-10 of this
21 Act when commercial operation commences. The sourcing
22 agreements with this initial clean coal facility shall be
23 subject to both approval of the initial clean coal facility
24 by the General Assembly and satisfaction of the
25 requirements of paragraph (4) of this subsection (d) and
26 shall be executed within 90 days after any such approval by

1 the General Assembly. The Agency and the Commission shall
2 have authority to inspect all books and records associated
3 with the initial clean coal facility during the term of
4 such a sourcing agreement. A utility's sourcing agreement
5 for electricity produced by the initial clean coal facility
6 shall include:

7 (A) a formula contractual price (the "contract
8 price") approved pursuant to paragraph (4) of this
9 subsection (d), which shall:

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

20 (ii) provide that all miscellaneous net
21 revenue, including but not limited to net revenue
22 from the sale of emission allowances, if any,
23 substitute natural gas, if any, grants or other
24 support provided by the State of Illinois or the
25 United States Government, firm transmission
26 rights, if any, by-products produced by the

1 facility, energy or capacity derived from the
2 facility and not covered by a sourcing agreement
3 pursuant to paragraph (3) of this subsection (d) or
4 item (5) of subsection (d) of Section 16-115 of the
5 Public Utilities Act, whether generated from the
6 synthesis gas derived from coal, from SNG, or from
7 natural gas, shall be credited against the revenue
8 requirement for this initial clean coal facility;

9 (B) power purchase provisions, which shall:

10 (i) provide that the utility party to such
11 sourcing agreement shall pay the contract price
12 for electricity delivered under such sourcing
13 agreement;

14 (ii) require delivery of electricity to the
15 regional transmission organization market of the
16 utility that is party to such sourcing agreement;

17 (iii) require the utility party to such
18 sourcing agreement to buy from the initial clean
19 coal facility in each hour an amount of energy
20 equal to all clean coal energy made available from
21 the initial clean coal facility during such hour
22 times a fraction, the numerator of which is such
23 utility's retail market sales of electricity
24 (expressed in kilowatthours sold) in the State
25 during the prior calendar month and the
26 denominator of which is the total retail market

1 sales of electricity (expressed in kilowatthours
2 sold) in the State by utilities during such prior
3 month and the sales of electricity (expressed in
4 kilowatthours sold) in the State by alternative
5 retail electric suppliers during such prior month
6 that are subject to the requirements of this
7 subsection (d) and paragraph (5) of subsection (d)
8 of Section 16-115 of the Public Utilities Act,
9 provided that the amount purchased by the utility
10 in any year will be limited by paragraph (2) of
11 this subsection (d); and

12 (iv) be considered pre-existing contracts in
13 such utility's procurement plans for eligible
14 retail customers;

15 (C) contract for differences provisions, which
16 shall:

17 (i) require the utility party to such sourcing
18 agreement to contract with the initial clean coal
19 facility in each hour with respect to an amount of
20 energy equal to all clean coal energy made
21 available from the initial clean coal facility
22 during such hour times a fraction, the numerator of
23 which is such utility's retail market sales of
24 electricity (expressed in kilowatthours sold) in
25 the utility's service territory in the State
26 during the prior calendar month and the

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

13 (ii) provide that the utility's payment
14 obligation in respect of the quantity of
15 electricity determined pursuant to the preceding
16 clause (i) shall be limited to an amount equal to
17 (1) the difference between the contract price
18 determined pursuant to subparagraph (A) of
19 paragraph (3) of this subsection (d) and the
20 day-ahead price for electricity delivered to the
21 regional transmission organization market of the
22 utility that is party to such sourcing agreement
23 (or any successor delivery point at which such
24 utility's supply obligations are financially
25 settled on an hourly basis) (the "reference
26 price") on the day preceding the day on which the

1 electricity is delivered to the initial clean coal
2 facility busbar, multiplied by (2) the quantity of
3 electricity determined pursuant to the preceding
4 clause (i); and

5 (iii) not require the utility to take physical
6 delivery of the electricity produced by the
7 facility;

8 (D) general provisions, which shall:

9 (i) specify a term of no more than 30 years,
10 commencing on the commercial operation date of the
11 facility;

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

20 (iii) provide that all costs associated with
21 the initial clean coal facility will be
22 periodically reported to the Federal Energy
23 Regulatory Commission and to purchasers in
24 accordance with applicable laws governing
25 cost-based wholesale power contracts;

26 (iv) permit the Illinois Power Agency to

1 assume ownership of the initial clean coal
2 facility, without monetary consideration and
3 otherwise on reasonable terms acceptable to the
4 Agency, if the Agency so requests no less than 3
5 years prior to the end of the stated contract term;

6 (v) require the owner of the initial clean coal
7 facility to provide documentation to the
8 Commission each year, starting in the facility's
9 first year of commercial operation, accurately
10 reporting the quantity of carbon emissions from
11 the facility that have been captured and
12 sequestered and report any quantities of carbon
13 released from the site or sites at which carbon
14 emissions were sequestered in prior years, based
15 on continuous monitoring of such sites. If, in any
16 year after the first year of commercial operation,
17 the owner of the facility fails to demonstrate that
18 the initial clean coal facility captured and
19 sequestered at least 50% of the total carbon
20 emissions that the facility would otherwise emit
21 or that sequestration of emissions from prior
22 years has failed, resulting in the release of
23 carbon dioxide into the atmosphere, the owner of
24 the facility must offset excess emissions. Any
25 such carbon offsets must be permanent, additional,
26 verifiable, real, located within the State of

1 Illinois, and legally and practicably enforceable.
2 The cost of such offsets for the facility that are
3 not recoverable shall not exceed \$15 million in any
4 given year. No costs of any such purchases of
5 carbon offsets may be recovered from a utility or
6 its customers. All carbon offsets purchased for
7 this purpose and any carbon emission credits
8 associated with sequestration of carbon from the
9 facility must be permanently retired. The initial
10 clean coal facility shall not forfeit its
11 designation as a clean coal facility if the
12 facility fails to fully comply with the applicable
13 carbon sequestration requirements in any given
14 year, provided the requisite offsets are
15 purchased. However, the Attorney General, on
16 behalf of the People of the State of Illinois, may
17 specifically enforce the facility's sequestration
18 requirement and the other terms of this contract
19 provision. Compliance with the sequestration
20 requirements and offset purchase requirements
21 specified in paragraph (3) of this subsection (d)
22 shall be reviewed annually by an independent
23 expert retained by the owner of the initial clean
24 coal facility, with the advance written approval
25 of the Attorney General. The Commission may, in the
26 course of the review specified in item (vii),

1 reduce the allowable return on equity for the
2 facility if the facility willfully fails to comply
3 with the carbon capture and sequestration
4 requirements set forth in this item (v);

5 (vi) include limits on, and accordingly
6 provide for modification of, the amount the
7 utility is required to source under the sourcing
8 agreement consistent with paragraph (2) of this
9 subsection (d);

10 (vii) require Commission review: (1) to
11 determine the justness, reasonableness, and
12 prudence of the inputs to the formula referenced in
13 subparagraphs (A)(i) through (A)(iii) of paragraph
14 (3) of this subsection (d), prior to an adjustment
15 in those inputs including, without limitation, the
16 capital structure and return on equity, fuel
17 costs, and other operations and maintenance costs
18 and (2) to approve the costs to be passed through
19 to customers under the sourcing agreement by which
20 the utility satisfies its statutory obligations.
21 Commission review shall occur no less than every 3
22 years, regardless of whether any adjustments have
23 been proposed, and shall be completed within 9
24 months;

25 (viii) limit the utility's obligation to such
26 amount as the utility is allowed to recover through

1 tariffs filed with the Commission, provided that
2 neither the clean coal facility nor the utility
3 waives any right to assert federal pre-emption or
4 any other argument in response to a purported
5 disallowance of recovery costs;

6 (ix) limit the utility's or alternative retail
7 electric supplier's obligation to incur any
8 liability until such time as the facility is in
9 commercial operation and generating power and
10 energy and such power and energy is being delivered
11 to the facility busbar;

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

19 (xi) append documentation showing that the
20 formula rate and contract, insofar as they relate
21 to the power purchase provisions, have been
22 approved by the Federal Energy Regulatory
23 Commission pursuant to Section 205 of the Federal
24 Power Act;

25 (xii) provide that any changes to the terms of
26 the contract, insofar as such changes relate to the

1 power purchase provisions, are subject to review
2 under the public interest standard applied by the
3 Federal Energy Regulatory Commission pursuant to
4 Sections 205 and 206 of the Federal Power Act; and

5 (xiii) conform with customary lender
6 requirements in power purchase agreements used as
7 the basis for financing non-utility generators.

8 (4) Effective date of sourcing agreements with the
9 initial clean coal facility. Any proposed sourcing
10 agreement with the initial clean coal facility shall not
11 become effective unless the following reports are prepared
12 and submitted and authorizations and approvals obtained:

13 (i) Facility cost report. The owner of the initial
14 clean coal facility shall submit to the Commission, the
15 Agency, and the General Assembly a front-end
16 engineering and design study, a facility cost report,
17 method of financing (including but not limited to
18 structure and associated costs), and an operating and
19 maintenance cost quote for the facility (collectively
20 "facility cost report"), which shall be prepared in
21 accordance with the requirements of this paragraph (4)
22 of subsection (d) of this Section, and shall provide
23 the Commission and the Agency access to the work
24 papers, relied upon documents, and any other backup
25 documentation related to the facility cost report.

26 (ii) Commission report. Within 6 months following

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

22 (iii) General Assembly approval. The proposed
23 sourcing agreements shall not take effect unless,
24 based on the facility cost report and the Commission's
25 report, the General Assembly enacts authorizing
26 legislation approving (A) the projected price, stated

1 in cents per kilowatthour, to be charged for
2 electricity generated by the initial clean coal
3 facility, (B) the projected impact on residential and
4 small business customers' bills over the life of the
5 sourcing agreements, and (C) the maximum allowable
6 return on equity for the project; and

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

18 The facility cost report shall be prepared as follows:

19 (A) The facility cost report shall be prepared by
20 duly licensed engineering and construction firms
21 detailing the estimated capital costs payable to one or
22 more contractors or suppliers for the engineering,
23 procurement and construction of the components
24 comprising the initial clean coal facility and the
25 estimated costs of operation and maintenance of the
26 facility. The facility cost report shall include:

1 (i) an estimate of the capital cost of the core
2 plant based on one or more front end engineering
3 and design studies for the gasification island and
4 related facilities. The core plant shall include
5 all civil, structural, mechanical, electrical,
6 control, and safety systems.

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

18 The quoted construction costs shall be expressed
19 in nominal dollars as of the date that the quote is
20 prepared and shall include capitalized financing costs
21 during construction, taxes, insurance, and other
22 owner's costs, and an assumed escalation in materials
23 and labor beyond the date as of which the construction
24 cost quote is expressed.

25 (B) The front end engineering and design study for
26 the gasification island and the cost study for the

1 balance of plant shall include sufficient design work
2 to permit quantification of major categories of
3 materials, commodities and labor hours, and receipt of
4 quotes from vendors of major equipment required to
5 construct and operate the clean coal facility.

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

22 The operating and maintenance cost quote
23 (including the cost of the front end engineering and
24 design study) shall be expressed in nominal dollars as
25 of the date that the quote is prepared and shall
26 include taxes, insurance, and other owner's costs, and

1 an assumed escalation in materials and labor beyond the
2 date as of which the operating and maintenance cost
3 quote is expressed.

4 (D) The facility cost report shall also include an
5 analysis of the initial clean coal facility's ability
6 to deliver power and energy into the applicable
7 regional transmission organization markets and an
8 analysis of the expected capacity factor for the
9 initial clean coal facility.

10 (E) Amounts paid to third parties unrelated to the
11 owner or owners of the initial clean coal facility to
12 prepare the core plant construction cost quote,
13 including the front end engineering and design study,
14 and the operating and maintenance cost quote will be
15 reimbursed through Coal Development Bonds.

16 (5) Re-powering and retrofitting coal-fired power
17 plants previously owned by Illinois utilities to qualify as
18 clean coal facilities. During the 2009 procurement
19 planning process and thereafter, the Agency and the
20 Commission shall consider sourcing agreements covering
21 electricity generated by power plants that were previously
22 owned by Illinois utilities and that have been or will be
23 converted into clean coal facilities, as defined by Section
24 1-10 of this Act. Pursuant to such procurement planning
25 process, the owners of such facilities may propose to the
26 Agency sourcing agreements with utilities and alternative

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

19 (6) Costs incurred under this subsection (d) or
20 pursuant to a contract entered into under this subsection
21 (d) shall be deemed prudently incurred and reasonable in
22 amount and the electric utility shall be entitled to full
23 cost recovery pursuant to the tariffs filed with the
24 Commission.

25 (d-5) Zero emission standard.

26 (1) Beginning with the delivery year commencing on June

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

1 from the portion of the zero emission facility that is
2 owned by the winning supplier.

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

7 The procurement process shall be subject to the
8 following provisions:

9 (A) Those zero emission facilities that intend to
10 participate in the procurement shall submit to the
11 Agency the following eligibility information for each
12 zero emission facility on or before the date
13 established by the Agency:

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

16 (ii) the amount of power generated annually
17 for each of the years 2005 through 2015, and the
18 projected zero emission credits to be generated
19 over the remaining useful life of the zero emission
20 facility, which shall be used to determine the
21 capability of each facility;

22 (iii) the annual zero emission facility cost
23 projections, expressed on a per megawatthour
24 basis, over the next 6 delivery years, which shall
25 include the following: operation and maintenance
26 expenses; fully allocated overhead costs, which

1 shall be allocated using the methodology developed
2 by the Institute for Nuclear Power Operations;
3 fuel expenditures; non-fuel capital expenditures;
4 spent fuel expenditures; a return on working
5 capital; the cost of operational and market risks
6 that could be avoided by ceasing operation; and any
7 other costs necessary for continued operations,
8 provided that "necessary" means, for purposes of
9 this item (iii), that the costs could reasonably be
10 avoided only by ceasing operations of the zero
11 emission facility; and

12 (iv) a commitment to continue operating, for
13 the duration of the contract or contracts executed
14 under the procurement held under this subsection
15 (d-5), the zero emission facility that produces
16 the zero emission credits to be procured in the
17 procurement.

18 The information described in item (iii) of this
19 subparagraph (A) may be submitted on a confidential
20 basis and shall be treated and maintained by the
21 Agency, the procurement administrator, and the
22 Commission as confidential and proprietary and exempt
23 from disclosure under subparagraphs (a) and (g) of
24 paragraph (1) of Section 7 of the Freedom of
25 Information Act. The Office of Attorney General shall
26 have access to, and maintain the confidentiality of,

1 such information pursuant to Section 6.5 of the
2 Attorney General Act.

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

20 (i) Social Cost of Carbon: The Social Cost of
21 Carbon is \$16.50 per megawatthour, which is based
22 on the U.S. Interagency Working Group on Social
23 Cost of Carbon's price in the August 2016 Technical
24 Update using a 3% discount rate, adjusted for
25 inflation for each year of the program. Beginning
26 with the delivery year commencing June 1, 2023, the

1 price per megawatthour shall increase by \$1 per
2 megawatthour, and continue to increase by an
3 additional \$1 per megawatthour each delivery year
4 thereafter.

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

20 (iii) Market price index: The market price
21 index for a delivery year shall be the sum of
22 projected energy prices and projected capacity
23 prices determined as follows:

24 (aa) Projected energy prices: the
25 projected energy prices for the applicable
26 delivery year shall be calculated once for the

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

12 (bb) Projected capacity prices:

13 (I) For the delivery years commencing
14 June 1, 2017, June 1, 2018, and June 1,
15 2019, the projected capacity price shall
16 be equal to the sum of (1) 50% multiplied
17 by the Base Residual Auction, or its
18 successor, price for the rest of the RTO
19 zone group as determined by PJM
20 Interconnection LLC, divided by 24 hours
21 per day and, (2) 50% multiplied by the
22 resource auction price determined in the
23 resource auction administered by the
24 Midcontinent Independent System Operator,
25 Inc., in which the largest percentage of
26 load cleared for Local Resource Zone 4,

1 divided by 24 hours per day, and where such
2 price is determined by the Midcontinent
3 Independent System Operator, Inc.

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

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

21 "Rest of the RTO" and "ComEd Zone" shall have
22 the meaning ascribed to them by PJM
23 Interconnection, LLC.

24 "RTO" means regional transmission
25 organization.

26 (C) No later than 45 days after June 1, 2017 (the

1 effective date of Public Act 99-906), the Agency shall
2 publish its proposed zero emission standard
3 procurement plan. The plan shall be consistent with the
4 provisions of this paragraph (1) and shall provide that
5 winning bids shall be selected based on public interest
6 criteria that include, but are not limited to,
7 minimizing carbon dioxide emissions that result from
8 electricity consumed in Illinois and minimizing sulfur
9 dioxide, nitrogen oxide, and particulate matter
10 emissions that adversely affect the citizens of this
11 State. In particular, the selection of winning bids
12 shall take into account the incremental environmental
13 benefits resulting from the procurement, such as any
14 existing environmental benefits that are preserved by
15 the procurements held under Public Act 99-906 and would
16 cease to exist if the procurements were not held,
17 including the preservation of zero emission
18 facilities. The plan shall also describe in detail how
19 each public interest factor shall be considered and
20 weighted in the bid selection process to ensure that
21 the public interest criteria are applied to the
22 procurement and given full effect.

23 For purposes of developing the plan, the Agency
24 shall consider any reports issued by a State agency,
25 board, or commission under House Resolution 1146 of the
26 98th General Assembly and paragraph (4) of subsection

1 (d) of this Section ~~1-75 of this Act~~, as well as
2 publicly available analyses and studies performed by
3 or for regional transmission organizations that serve
4 the State and their independent market monitors.

5 Upon publishing of the zero emission standard
6 procurement plan, copies of the plan shall be posted
7 and made publicly available on the Agency's website.
8 All interested parties shall have 10 days following the
9 date of posting to provide comment to the Agency on the
10 plan. All comments shall be posted to the Agency's
11 website. Following the end of the comment period, but
12 no more than 60 days later than June 1, 2017 (the
13 effective date of Public Act 99-906), the Agency shall
14 revise the plan as necessary based on the comments
15 received and file its zero emission standard
16 procurement plan with the Commission.

17 If the Commission determines that the plan will
18 result in the procurement of cost-effective zero
19 emission credits, then the Commission shall, after
20 notice and hearing, but no later than 45 days after the
21 Agency filed the plan, approve the plan or approve with
22 modification. For purposes of this subsection (d-5),
23 "cost effective" means the projected costs of
24 procuring zero emission credits from zero emission
25 facilities do not cause the limit stated in paragraph
26 (2) of this subsection to be exceeded.

1 (C-5) As part of the Commission's review and
2 acceptance or rejection of the procurement results,
3 the Commission shall, in its public notice of
4 successful bidders:

5 (i) identify how the winning bids satisfy the
6 public interest criteria described in subparagraph
7 (C) of this paragraph (1) of minimizing carbon
8 dioxide emissions that result from electricity
9 consumed in Illinois and minimizing sulfur
10 dioxide, nitrogen oxide, and particulate matter
11 emissions that adversely affect the citizens of
12 this State;

13 (ii) specifically address how the selection of
14 winning bids takes into account the incremental
15 environmental benefits resulting from the
16 procurement, including any existing environmental
17 benefits that are preserved by the procurements
18 held under Public Act 99-906 and would have ceased
19 to exist if the procurements had not been held,
20 such as the preservation of zero emission
21 facilities;

22 (iii) quantify the environmental benefit of
23 preserving the resources identified in item (ii)
24 of this subparagraph (C-5), including the
25 following:

26 (aa) the value of avoided greenhouse gas

1 emissions measured as the product of the zero
2 emission facilities' output over the contract
3 term multiplied by the U.S. Environmental
4 Protection Agency eGrid subregion carbon
5 dioxide emission rate and the U.S. Interagency
6 Working Group on Social Cost of Carbon's price
7 in the August 2016 Technical Update using a 3%
8 discount rate, adjusted for inflation for each
9 delivery year; and

10 (bb) the costs of replacement with other
11 zero carbon dioxide resources, including wind
12 and photovoltaic, based upon the simple
13 average of the following:

14 (I) the price, or if there is more than
15 one price, the average of the prices, paid
16 for renewable energy credits from new
17 utility-scale wind projects in the
18 procurement events specified in item (i)
19 of subparagraph (G) of paragraph (1) of
20 subsection (c) of this Section ~~1-75 of this~~
21 ~~Act~~; and

22 (II) the price, or if there is more
23 than one price, the average of the prices,
24 paid for renewable energy credits from new
25 utility-scale solar projects and
26 brownfield site photovoltaic projects in

1 the procurement events specified in item
2 (ii) of subparagraph (G) of paragraph (1)
3 of subsection (c) of this Section ~~1-75 of~~
4 ~~this Act~~ and, after January 1, 2015,
5 renewable energy credits from photovoltaic
6 distributed generation projects in
7 procurement events held under subsection
8 (c) of this Section ~~1-75 of this Act~~.

9 Each utility shall enter into binding contractual
10 arrangements with the winning suppliers.

11 The procurement described in this subsection
12 (d-5), including, but not limited to, the execution of
13 all contracts procured, shall be completed no later
14 than May 10, 2017. Based on the effective date of
15 Public Act 99-906, the Agency and Commission may, as
16 appropriate, modify the various dates and timelines
17 under this subparagraph and subparagraphs (C) and (D)
18 of this paragraph (1). The procurement and plan
19 approval processes required by this subsection (d-5)
20 shall be conducted in conjunction with the procurement
21 and plan approval processes required by subsection (c)
22 of this Section and Section 16-111.5 of the Public
23 Utilities Act, to the extent practicable.
24 Notwithstanding whether a procurement event is
25 conducted under Section 16-111.5 of the Public
26 Utilities Act, the Agency shall immediately initiate a

1 procurement process on June 1, 2017 (the effective date
2 of Public Act 99-906).

3 (D) Following the procurement event described in
4 this paragraph (1) and consistent with subparagraph
5 (B) of this paragraph (1), the Agency shall calculate
6 the payments to be made under each contract for the
7 next delivery year based on the market price index for
8 that delivery year. The Agency shall publish the
9 payment calculations no later than May 25, 2017 and
10 every May 25 thereafter.

11 (E) Notwithstanding the requirements of this
12 subsection (d-5), the contracts executed under this
13 subsection (d-5) shall provide that the zero emission
14 facility may, as applicable, suspend or terminate
15 performance under the contracts in the following
16 instances:

17 (i) A zero emission facility shall be excused
18 from its performance under the contract for any
19 cause beyond the control of the resource,
20 including, but not restricted to, acts of God,
21 flood, drought, earthquake, storm, fire,
22 lightning, epidemic, war, riot, civil disturbance
23 or disobedience, labor dispute, labor or material
24 shortage, sabotage, acts of public enemy,
25 explosions, orders, regulations or restrictions
26 imposed by governmental, military, or lawfully

1 established civilian authorities, which, in any of
2 the foregoing cases, by exercise of commercially
3 reasonable efforts the zero emission facility
4 could not reasonably have been expected to avoid,
5 and which, by the exercise of commercially
6 reasonable efforts, it has been unable to
7 overcome. In such event, the zero emission
8 facility shall be excused from performance for the
9 duration of the event, including, but not limited
10 to, delivery of zero emission credits, and no
11 payment shall be due to the zero emission facility
12 during the duration of the event.

13 (ii) A zero emission facility shall be
14 permitted to terminate the contract if legislation
15 is enacted into law by the General Assembly that
16 imposes or authorizes a new tax, special
17 assessment, or fee on the generation of
18 electricity, the ownership or leasehold of a
19 generating unit, or the privilege or occupation of
20 such generation, ownership, or leasehold of
21 generation units by a zero emission facility.
22 However, the provisions of this item (ii) do not
23 apply to any generally applicable tax, special
24 assessment or fee, or requirements imposed by
25 federal law.

26 (iii) A zero emission facility shall be

1 permitted to terminate the contract in the event
2 that the resource requires capital expenditures in
3 excess of \$40,000,000 that were neither known nor
4 reasonably foreseeable at the time it executed the
5 contract and that a prudent owner or operator of
6 such resource would not undertake.

7 (iv) A zero emission facility shall be
8 permitted to terminate the contract in the event
9 the Nuclear Regulatory Commission terminates the
10 resource's license.

11 (F) If the zero emission facility elects to
12 terminate a contract under ~~this~~ subparagraph (E)7 of
13 this paragraph (1), then the Commission shall reopen
14 the docket in which the Commission approved the zero
15 emission standard procurement plan under subparagraph
16 (C) of this paragraph (1) and, after notice and
17 hearing, enter an order acknowledging the contract
18 termination election if such termination is consistent
19 with the provisions of this subsection (d-5).

20 (2) For purposes of this subsection (d-5), the amount
21 paid per kilowatthour means the total amount paid for
22 electric service expressed on a per kilowatthour basis. For
23 purposes of this subsection (d-5), the total amount paid
24 for electric service includes, without limitation, amounts
25 paid for supply, transmission, distribution, surcharges,
26 and add-on taxes.

1 Notwithstanding the requirements of this subsection
2 (d-5), the contracts executed under this subsection (d-5)
3 shall provide that the total of zero emission credits
4 procured under a procurement plan shall be subject to the
5 limitations of this paragraph (2). For each delivery year,
6 the contractual volume receiving payments in such year
7 shall be reduced for all retail customers based on the
8 amount necessary to limit the net increase that delivery
9 year to the costs of those credits included in the amounts
10 paid by eligible retail customers in connection with
11 electric service to no more than 1.65% of the amount paid
12 per kilowatthour by eligible retail customers during the
13 year ending May 31, 2009. The result of this computation
14 shall apply to and reduce the procurement for all retail
15 customers, and all those customers shall pay the same
16 single, uniform cents per kilowatthour charge under
17 subsection (k) of Section 16-108 of the Public Utilities
18 Act. To arrive at a maximum dollar amount of zero emission
19 credits to be paid for the particular delivery year, the
20 resulting per kilowatthour amount shall be applied to the
21 actual amount of kilowatthours of electricity delivered by
22 the electric utility in the delivery year immediately prior
23 to the procurement, to all retail customers in its service
24 territory. Unpaid contractual volume for any delivery year
25 shall be paid in any subsequent delivery year in which such
26 payments can be made without exceeding the amount specified

1 in this paragraph (2). The calculations required by this
2 paragraph (2) shall be made only once for each procurement
3 plan year. Once the determination as to the amount of zero
4 emission credits to be paid is made based on the
5 calculations set forth in this paragraph (2), no subsequent
6 rate impact determinations shall be made and no adjustments
7 to those contract amounts shall be allowed. All costs
8 incurred under those contracts and in implementing this
9 subsection (d-5) shall be recovered by the electric utility
10 as provided in this Section.

11 No later than June 30, 2019, the Commission shall
12 review the limitation on the amount of zero emission
13 credits procured under this subsection (d-5) and report to
14 the General Assembly its findings as to whether that
15 limitation unduly constrains the procurement of
16 cost-effective zero emission credits.

17 (3) Six years after the execution of a contract under
18 this subsection (d-5), the Agency shall determine whether
19 the actual zero emission credit payments received by the
20 supplier over the 6-year period exceed the Average ZEC
21 Payment. In addition, at the end of the term of a contract
22 executed under this subsection (d-5), or at the time, if
23 any, a zero emission facility's contract is terminated
24 under subparagraph (E) of paragraph (1) of this subsection
25 (d-5), then the Agency shall determine whether the actual
26 zero emission credit payments received by the supplier over

1 the term of the contract exceed the Average ZEC Payment,
2 after taking into account any amounts previously credited
3 back to the utility under this paragraph (3). If the Agency
4 determines that the actual zero emission credit payments
5 received by the supplier over the relevant period exceed
6 the Average ZEC Payment, then the supplier shall credit the
7 difference back to the utility. The amount of the credit
8 shall be remitted to the applicable electric utility no
9 later than 120 days after the Agency's determination, which
10 the utility shall reflect as a credit on its retail
11 customer bills as soon as practicable; however, the credit
12 remitted to the utility shall not exceed the total amount
13 of payments received by the facility under its contract.

14 For purposes of this Section, the Average ZEC Payment
15 shall be calculated by multiplying the quantity of zero
16 emission credits delivered under the contract times the
17 average contract price. The average contract price shall be
18 determined by subtracting the amount calculated under
19 subparagraph (B) of this paragraph (3) from the amount
20 calculated under subparagraph (A) of this paragraph (3), as
21 follows:

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

25 (B) The average of the market price indices, as
26 defined in subparagraph (B) of paragraph (1) of this

1 subsection (d-5), during the term of the contract,
2 minus the baseline market price index, as defined in
3 subparagraph (B) of paragraph (1) of this subsection
4 (d-5).

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

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

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

13 (6) Electric utilities shall be entitled to recover all
14 of the costs associated with the procurement of zero
15 emission credits through an automatic adjustment clause
16 tariff in accordance with subsection (k) and (m) of Section
17 16-108 of the Public Utilities Act, and the contracts
18 executed under this subsection (d-5) shall provide that the
19 utilities' payment obligations under such contracts shall
20 be reduced if an adjustment is required under subsection
21 (m) of Section 16-108 of the Public Utilities Act.

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

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

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

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

8 (h) The Agency shall assess fees to each bidder to recover
9 the costs incurred in connection with a competitive procurement
10 process.

11 (i) A renewable energy credit, carbon emission credit, or
12 zero emission credit can only be used once to comply with a
13 single portfolio or other standard as set forth in subsection
14 (c), subsection (d), or subsection (d-5) of this Section,
15 respectively. A renewable energy credit, carbon emission
16 credit, or zero emission credit cannot be used to satisfy the
17 requirements of more than one standard. If more than one type
18 of credit is issued for the same megawatt hour of energy, only
19 one credit can be used to satisfy the requirements of a single
20 standard. After such use, the credit must be retired together
21 with any other credits issued for the same megawatt hour of
22 energy.

23 (Source: P.A. 99-536, eff. 7-8-16; 99-906, eff. 6-1-17;
24 100-863, eff. 8-14-18; revised 10-18-18.)