

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.)