



Rep. Lawrence Walsh, Jr.

Filed: 4/7/2022

10200SB3866ham004

LRB102 24630 LNS 38917 a

1 AMENDMENT TO SENATE BILL 3866

2 AMENDMENT NO. _____. Amend Senate Bill 3866 by replacing
3 everything after the enacting clause with the following:

4 "Article 1.

5 Section 1-5. The Energy Transition Act is amended by
6 changing Section 5-40 as follows:

7 (20 ILCS 730/5-40)

8 (Section scheduled to be repealed on September 15, 2045)

9 Sec. 5-40. Illinois Climate Works Preapprenticeship
10 Program.

11 (a) Subject to appropriation, the Department shall
12 develop, and through Regional Administrators administer, the
13 Illinois Climate Works Preapprenticeship Program. The goal of
14 the Illinois Climate Works Preapprenticeship Program is to
15 create a network of hubs throughout the State that will

1 recruit, prescreen, and provide preapprenticeship skills
2 training, for which participants may attend free of charge and
3 receive a stipend, to create a qualified, diverse pipeline of
4 workers who are prepared for careers in the construction and
5 building trades and clean energy jobs opportunities therein.
6 Upon completion of the Illinois Climate Works
7 Preapprenticeship Program, the candidates will be connected to
8 and prepared to successfully complete an apprenticeship
9 program.

10 (b) Each Climate Works Hub that receives funding from the
11 Energy Transition Assistance Fund shall provide an annual
12 report to the Illinois Works Review Panel by April 1 of each
13 calendar year. The annual report shall include the following
14 information:

15 (1) a description of the Climate Works Hub's
16 recruitment, screening, and training efforts, including a
17 description of training related to construction and
18 building trades opportunities in clean energy jobs;

19 (2) the number of individuals who apply to,
20 participate in, and complete the Climate Works Hub's
21 program, broken down by race, gender, age, and veteran
22 status;

23 (3) the number of the individuals referenced in
24 paragraph (2) of this subsection who are initially
25 accepted and placed into apprenticeship programs in the
26 construction and building trades; and

1 (4) the number of individuals referenced in paragraph
2 (2) of this subsection who remain in apprenticeship
3 programs in the construction and building trades or have
4 become journeymen one calendar year after their placement,
5 as referenced in paragraph (3) of this subsection.

6 (c) Subject to appropriation, the Department shall provide
7 funding to 3 Climate Works Hubs throughout the State,
8 including one to the Illinois Department of Transportation
9 Region 1, one to the Illinois Department of Transportation
10 Regions 2 and 3, and one to the Illinois Department of
11 Transportation Regions 4 and 5. Climate Works Hubs shall be
12 awarded grants in multi-year increments not to exceed 36
13 months. Each grant shall come with a one year initial term,
14 with the Department renewing each year for 2 additional years
15 unless the grantee either declines to continue or fails to
16 meet reasonable performance measures that consider
17 apprenticeship programs timeframes. The Department shall
18 initially select a community-based provider in each region and
19 shall subsequently select a community-based provider in each
20 region every 3 years. The Department may take into account
21 experience and performance as a previous grantee of the
22 Climate Works Hub as part of the selection criteria for
23 subsequent years.

24 (d) Each Climate Works Hub that receives funding from the
25 Energy Transition Assistance Fund shall: ~~The Climate Works~~
26 Hubs shall recruit, prescreen, and provide preapprenticeship

1 ~~training to equity investment eligible persons. This training~~
2 ~~shall include information related to opportunities and~~
3 ~~certifications relevant to clean energy jobs in the~~
4 ~~construction and building trades.~~

5 (1) recruit, prescreen, and provide preapprenticeship
6 training to equity investment eligible persons;

7 (2) provide training information related to
8 opportunities and certifications relevant to clean energy
9 jobs in the construction and building trades; and

10 (3) provide preapprentices with stipends they receive
11 that may vary depending on the occupation the individual
12 is training for.

13 (d-5) Priority shall be given to Climate Works Hubs that
14 have an agreement with North American Building Trades Unions
15 (NABTU) to utilize the Multi-Craft Core Curriculum or
16 successor curriculums.

17 (e) Funding for the Program is subject to appropriation
18 from the Energy Transition Assistance Fund.

19 (f) The Department shall adopt any rules deemed necessary
20 to implement this Section.

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

22 Section 1-10. The Public Utilities Act is amended by
23 changing Sections 5-117, 8-218, 16-107.6, 16-108.5, and
24 16-108.30 and by adding Section 16-111.11 as follows:

1 (220 ILCS 5/5-117)

2 Sec. 5-117. Supplier diversity goals.

3 (a) The public policy of this State is to collaboratively
4 work with companies that serve Illinois residents to improve
5 their supplier diversity in a non-antagonistic manner.

6 (b) The Commission shall require all gas, electric, and
7 water utilities ~~companies~~ with at least 100,000 customers
8 under its authority, ~~as well as suppliers of wind energy,~~
9 ~~solar energy, hydroelectricity, nuclear energy, and any other~~
10 ~~supplier of energy within this State,~~ to submit an annual
11 report by April 15, 2015 and every April 15 thereafter, in a
12 searchable Adobe PDF format, on all procurement goals and
13 actual spending for female-owned, minority-owned,
14 veteran-owned, and small business enterprises in the previous
15 calendar year. These goals shall be expressed as a percentage
16 of the total work performed by the entity submitting the
17 report, and the actual spending for all female-owned,
18 minority-owned, veteran-owned, and small business enterprises
19 shall also be expressed as a percentage of the total work
20 performed by the entity submitting the report.

21 (c) Each participating company in its annual report shall
22 include the following information:

23 (1) an explanation of the plan for the next year to
24 increase participation;

25 (2) an explanation of the plan to increase the goals;

26 (3) the areas of procurement each company shall be

1 actively seeking more participation in the next year;

2 (3.5) a buying plan for the specific goods and
3 services the company intends to buy in the next 6 to 18
4 months, that is either (i) organized by and reported at
5 the level of each applicable North American Industry
6 Classification System code, (ii) provided using a method,
7 system, or description similar to the North American
8 Industry Classification System, or (iii) provided using
9 the major categories of goods and related services
10 utilized in the company's procurement system, and
11 including any procurement codes used by the company, to
12 assist entrepreneurs and diverse companies to understand
13 upcoming opportunities to work with the company, however,
14 a utility shall not be required to include
15 commercially-sensitive data, nonpublic procurement
16 information, or other information that could compromise a
17 utility's ability to negotiate the most advantageous price
18 or terms;

19 (4) an outline of the plan to alert and encourage
20 potential vendors in that area to seek business from the
21 company;

22 (5) an explanation of the challenges faced in finding
23 quality vendors and offer any suggestions for what the
24 Commission could do to be helpful to identify those
25 vendors;

26 (6) a list of the certifications the company

1 recognizes;

2 (7) the point of contact for any potential vendor who
3 wishes to do business with the company and explain the
4 process for a vendor to enroll with the company as a
5 minority-owned, women-owned, or veteran-owned company; and

6 (8) any particular success stories to encourage other
7 companies to emulate best practices.

8 (d) Each annual report shall include as much
9 State-specific data as possible. If the submitting entity does
10 not submit State-specific data, then the company shall include
11 any national data it does have and explain why it could not
12 submit State-specific data and how it intends to do so in
13 future reports, if possible.

14 (e) Each annual report shall include the rules,
15 regulations, and definitions used for the procurement goals in
16 the company's annual report.

17 (f) The Commission and all participating entities shall
18 hold an annual workshop open to the public in 2015 and every
19 year thereafter on the state of supplier diversity to
20 collaboratively seek solutions to structural impediments to
21 achieving stated goals, including testimony from each
22 participating entity as well as subject matter experts and
23 advocates. The Commission shall publish a database on its
24 website of the point of contact for each participating entity
25 for supplier diversity, along with a list of certifications
26 each company recognizes from the information submitted in each

1 annual report. The Commission shall publish each annual report
2 on its website and shall maintain each annual report for at
3 least 5 years.

4 (Source: P.A. 102-558, eff. 8-20-21; 102-662, eff. 9-15-21;
5 102-673, eff. 11-30-21.)

6 (220 ILCS 5/8-218)

7 Sec. 8-218. Utility-scale pilot projects.

8 (a) Electric utilities serving greater than 500,000
9 customers but less than 3,000,000 customers may propose, plan
10 for, construct, install, control, own, manage, or operate up
11 to 2 pilot projects consisting of utility-scale photovoltaic
12 energy generation facilities. A pilot project may consist of
13 photovoltaic energy generation facilities located on one or
14 more sites and may be installed or constructed in phases.
15 Energy storage facilities that are planned for, constructed,
16 installed, controlled, owned, managed, or operated may be
17 constructed in connection with the photovoltaic electricity
18 generation pilot projects.

19 (b) Pilot projects shall be sited in equity investment
20 eligible communities in or near the towns of Peoria and East
21 St. Louis and must result in economic benefits for the members
22 of the communities in which the project will be located. The
23 amount paid per pilot project with or without energy storage
24 facilities cannot exceed \$20,000,000. The electric utility's
25 costs of planning for, constructing, installing, controlling,

1 owning, managing, or operating the photovoltaic electricity
2 generation facilities and energy storage facilities may be
3 recovered, on a kilowatt hour basis, via an automatic
4 adjustment clause tariff applicable to all retail customers,
5 with the tariff to be approved by the Commission after
6 opportunity for review, and with an annual reconciliation
7 component; and for purposes of cost recovery, the photovoltaic
8 electricity production facilities may be treated as regulatory
9 assets, using the same ratemaking treatment in paragraph (1)
10 of subsection (h) of Section 16-107.6 of this Act, provided:
11 (1) the Commission shall have the authority to determine the
12 reasonableness of the costs of the facilities, and (2) any
13 monetary value of power and energy from the facilities shall
14 be credited against the delivery services revenue requirement.

15 (c) Any electric utility seeking to propose, plan for,
16 construct, install, control, own, manage, or operate a pilot
17 project pursuant to this Section must commit to using a
18 diverse and equitable workforce and a diverse set of
19 contractors, including minority-owned businesses,
20 disadvantaged businesses, trade unions, graduates of any
21 workforce training programs established by this amendatory Act
22 of the 102nd General Assembly, and small businesses. An
23 electric utility must comply with the equity commitment
24 requirements in subsection (c-10) of Section 1-75 of the
25 Illinois Power Agency Act. The electric utility must certify
26 that not less than the prevailing wage will be paid to

1 employees engaged in construction activities associated with
2 the pilot project. The electric utility must file a project
3 labor agreement, as defined in the Illinois Power Agency Act,
4 with the Commission prior to constructing, installing,
5 controlling, or owning a pilot project authorized by this
6 Section.

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

8 (220 ILCS 5/16-107.6)

9 Sec. 16-107.6. Distributed generation rebate.

10 (a) In this Section:

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

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

25 "Energy storage system" means commercially available

1 technology that is capable of absorbing energy and storing it
2 for a period of time for use at a later time, including, but
3 not limited to, electrochemical, thermal, and
4 electromechanical technologies, and may be interconnected
5 behind the customer's meter or interconnected behind its own
6 meter.

7 "Smart inverter" means a device that converts direct
8 current into alternating current and meets the IEEE 1547-2018
9 equipment standards. Until devices that meet the IEEE
10 1547-2018 standard are available, devices that meet the UL
11 1741 SA standard are acceptable.

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

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

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

26 "Threshold date" means December 31, 2024 or the date on

1 which the utility's tariff or tariffs setting the new
2 compensation values established under subsection (e) take
3 effect, whichever is later.

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

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

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

15 (3) is interconnected to electric distribution
16 facilities owned by the electric utility under rules
17 adopted by the Commission by means of the inverter or
18 smart inverter required by this Section, as applicable.

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

24 In addition, any new photovoltaic distributed generation
25 that is installed after June 1, 2017 (the effective date of
26 Public Act 99-906) must be installed by a qualified person, as

1 defined by subsection (i) of Section 1-56 of the Illinois
2 Power Agency Act.

3 The tariff shall include a base rebate that compensates
4 distributed generation for the system-wide grid services
5 associated with distributed generation and, after the
6 proceeding described in subsection (e) of this Section, an
7 additional payment or payments for the additive services. The
8 tariff shall provide that the smart inverter associated with
9 the distributed generation shall provide autonomous response
10 to grid conditions through its default settings as approved by
11 the Commission. Default settings may not be changed after the
12 execution of the interconnection agreement except by mutual
13 agreement between the utility and the owner or operator of the
14 distributed generation. Nothing in this Section shall negate
15 or supersede Institute of Electrical and Electronics Engineers
16 equipment standards or other similar standards or
17 requirements. The tariff shall not limit the ability of the
18 smart inverter or other distributed energy resource to provide
19 wholesale market products such as regulation, demand response,
20 or other services, or limit the ability of the owner of the
21 smart inverter or the other distributed energy resource to
22 receive compensation for providing those wholesale market
23 products or services.

24 (b-5) Within 30 days after the effective date of this
25 amendatory Act of the 102nd General Assembly, each electric
26 public utility with 3,000,000 or more retail customers shall

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

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

22 (1) The owner or operator of distributed generation
23 that services customers not eligible for net metering
24 under subsection (d), (d-5), or (e) of Section 16-107.5 of
25 this Act may apply for a rebate as provided for in this
26 Section. Until the threshold date, the value of the rebate

1 shall be \$250 per kilowatt of nameplate generating
2 capacity, measured as nominal DC power output, of that
3 customer's distributed generation. To the extent the
4 distributed generation also has an associated energy
5 storage, then the energy storage system shall be
6 separately compensated with a base rebate of \$250 per
7 kilowatt-hour of nameplate capacity. Any distributed
8 generation device that is compensated for storage in this
9 subsection (1) before the threshold date shall participate
10 in one or more programs determined through the Multi-Year
11 Integrated Grid Planning process that are designed to meet
12 peak reduction and flexibility. After the threshold date,
13 the value of the base rebate and additional compensation
14 for any additive services shall be as determined by the
15 Commission in the proceeding described in subsection (e)
16 of this Section, provided that the value of the base
17 rebate for system-wide grid services shall not be lower
18 than \$250 per kilowatt of nameplate generating capacity of
19 distributed generation or community renewable generation
20 project.

21 (2) The owner or operator of distributed generation
22 that, before the threshold date, would have been eligible
23 for net metering under subsection (d), (d-5), or (e) of
24 Section 16-107.5 of this Act and that has not previously
25 received a distributed generation rebate, may apply for a
26 rebate as provided for in this Section. Until the

1 threshold date, the value of the base rebate shall be \$300
2 per kilowatt of nameplate generating capacity, measured as
3 nominal DC power output, of the distributed generation.
4 The owner or operator of distributed generation that,
5 before the threshold date, is eligible for net metering
6 under subsection (d), (d-5), or (e) of Section 16-107.5 of
7 this Act may apply for a base rebate for an energy storage
8 device that uses the same smart inverter as the
9 distributed generation, regardless of whether the
10 distributed generation applies for a rebate for the
11 distributed generation device. The energy storage system
12 shall be separately compensated at a base payment of \$300
13 per kilowatt-hour of nameplate capacity. Any distributed
14 generation device that is compensated for storage in this
15 subsection (2) before the threshold date shall participate
16 in a peak time rebate program, hourly pricing program, or
17 time-of-use rate program offered by the applicable
18 electric utility. After the threshold date, the value of
19 the base rebate and additional compensation for any
20 additive services shall be as determined by the Commission
21 in the proceeding described in subsection (e) of this
22 Section, provided that, prior to December 31, 2029, the
23 value of the base rebate for system-wide services shall
24 not be lower than \$300 per kilowatt of nameplate
25 generating capacity of distributed generation, after which
26 it shall not be lower than \$250 per kilowatt of nameplate

1 capacity.

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

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

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

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

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

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

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

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

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

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

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

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

26 (6) The Commission shall determine additional

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

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

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

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

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

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

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

5 (1) The utility shall defer the full amount of its
6 costs as a regulatory asset. The total costs deferred as a
7 regulatory asset shall be amortized over a 15-year period.
8 The unamortized balance shall be recognized as of December
9 31 for a given year. The utility shall also earn a return
10 on the total of the unamortized balance of the regulatory
11 assets, less any deferred taxes related to the unamortized
12 balance, at an annual rate equal to the utility's weighted
13 average cost of capital that includes, based on a year-end
14 capital structure, the utility's actual cost of debt for
15 the applicable calendar year and a cost of equity, which
16 shall be calculated as the sum of (i) the average for the
17 applicable calendar year of the monthly average yields of
18 30-year U.S. Treasury bonds published by the Board of
19 Governors of the Federal Reserve System in its weekly H.15
20 Statistical Release or successor publication; and (ii) 580
21 basis points, including a revenue conversion factor
22 calculated to recover or refund all additional income
23 taxes that may be payable or receivable as a result of that
24 return.

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

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

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

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

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

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

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

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

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

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

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

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

1 rebates under this Section.

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

3 (220 ILCS 5/16-108.5)

4 Sec. 16-108.5. Infrastructure investment and
5 modernization; regulatory reform.

6 (a) (Blank).

7 (b) For purposes of this Section, "participating utility"
8 means an electric utility or a combination utility serving
9 more than 1,000,000 customers in Illinois that voluntarily
10 elects and commits to undertake (i) the infrastructure
11 investment program consisting of the commitments and
12 obligations described in this subsection (b) and (ii) the
13 customer assistance program consisting of the commitments and
14 obligations described in subsection (b-10) of this Section,
15 notwithstanding any other provisions of this Act and without
16 obtaining any approvals from the Commission or any other
17 agency other than as set forth in this Section, regardless of
18 whether any such approval would otherwise be required.
19 "Combination utility" means a utility that, as of January 1,
20 2011, provided electric service to at least one million retail
21 customers in Illinois and gas service to at least 500,000
22 retail customers in Illinois. A participating utility shall
23 recover the expenditures made under the infrastructure
24 investment program through the ratemaking process, including,
25 but not limited to, the performance-based formula rate and

1 process set forth in this Section.

2 During the infrastructure investment program's peak
3 program year, a participating utility other than a combination
4 utility shall create 2,000 full-time equivalent jobs in
5 Illinois, and a participating utility that is a combination
6 utility shall create 450 full-time equivalent jobs in Illinois
7 related to the provision of electric service. These jobs shall
8 include direct jobs, contractor positions, and induced jobs,
9 but shall not include any portion of a job commitment, not
10 specifically contingent on an amendatory Act of the 97th
11 General Assembly becoming law, between a participating utility
12 and a labor union that existed on December 30, 2011 (the
13 effective date of Public Act 97-646) and that has not yet been
14 fulfilled. A portion of the full-time equivalent jobs created
15 by each participating utility shall include incremental
16 personnel hired subsequent to December 30, 2011 (the effective
17 date of Public Act 97-646). For purposes of this Section,
18 "peak program year" means the consecutive 12-month period with
19 the highest number of full-time equivalent jobs that occurs
20 between the beginning of investment year 2 and the end of
21 investment year 4.

22 A participating utility shall meet one of the following
23 commitments, as applicable:

24 (1) Beginning no later than 180 days after a
25 participating utility other than a combination utility
26 files a performance-based formula rate tariff pursuant to

1 subsection (c) of this Section, or, beginning no later
2 than January 1, 2012 if such utility files such
3 performance-based formula rate tariff within 14 days of
4 October 26, 2011 (the effective date of Public Act
5 97-616), the participating utility shall, except as
6 provided in subsection (b-5):

7 (A) over a 5-year period, invest an estimated
8 \$1,300,000,000 in electric system upgrades,
9 modernization projects, and training facilities,
10 including, but not limited to:

11 (i) distribution infrastructure improvements
12 totaling an estimated \$1,000,000,000, including
13 underground residential distribution cable
14 injection and replacement and mainline cable
15 system refurbishment and replacement projects;

16 (ii) training facility construction or upgrade
17 projects totaling an estimated \$10,000,000,
18 provided that, at a minimum, one such facility
19 shall be located in a municipality having a
20 population of more than 2 million residents and
21 one such facility shall be located in a
22 municipality having a population of more than
23 150,000 residents but fewer than 170,000
24 residents; any such new facility located in a
25 municipality having a population of more than 2
26 million residents must be designed for the purpose

1 of obtaining, and the owner of the facility shall
2 apply for, certification under the United States
3 Green Building Council's Leadership in Energy
4 Efficiency Design Green Building Rating System;

5 (iii) wood pole inspection, treatment, and
6 replacement programs;

7 (iv) an estimated \$200,000,000 for reducing
8 the susceptibility of certain circuits to
9 storm-related damage, including, but not limited
10 to, high winds, thunderstorms, and ice storms;
11 improvements may include, but are not limited to,
12 overhead to underground conversion and other
13 engineered outcomes for circuits; the
14 participating utility shall prioritize the
15 selection of circuits based on each circuit's
16 historical susceptibility to storm-related damage
17 and the ability to provide the greatest customer
18 benefit upon completion of the improvements; to be
19 eligible for improvement, the participating
20 utility's ability to maintain proper tree
21 clearances surrounding the overhead circuit must
22 not have been impeded by third parties; and

23 (B) over a 10-year period, invest an estimated
24 \$1,300,000,000 to upgrade and modernize its
25 transmission and distribution infrastructure and in
26 Smart Grid electric system upgrades, including, but

1 not limited to:

2 (i) additional smart meters;

3 (ii) distribution automation;

4 (iii) associated cyber secure data
5 communication network; and

6 (iv) substation micro-processor relay
7 upgrades.

8 (2) Beginning no later than 180 days after a
9 participating utility that is a combination utility files
10 a performance-based formula rate tariff pursuant to
11 subsection (c) of this Section, or, beginning no later
12 than January 1, 2012 if such utility files such
13 performance-based formula rate tariff within 14 days of
14 October 26, 2011 (the effective date of Public Act
15 97-616), the participating utility shall, except as
16 provided in subsection (b-5):

17 (A) over a 10-year period, invest an estimated
18 \$265,000,000 in electric system upgrades,
19 modernization projects, and training facilities,
20 including, but not limited to:

21 (i) distribution infrastructure improvements
22 totaling an estimated \$245,000,000, which may
23 include bulk supply substations, transformers,
24 reconductoring, and rebuilding overhead
25 distribution and sub-transmission lines,
26 underground residential distribution cable

1 injection and replacement and mainline cable
2 system refurbishment and replacement projects;

3 (ii) training facility construction or upgrade
4 projects totaling an estimated \$1,000,000; any
5 such new facility must be designed for the purpose
6 of obtaining, and the owner of the facility shall
7 apply for, certification under the United States
8 Green Building Council's Leadership in Energy
9 Efficiency Design Green Building Rating System;
10 and

11 (iii) wood pole inspection, treatment, and
12 replacement programs; and

13 (B) over a 10-year period, invest an estimated
14 \$360,000,000 to upgrade and modernize its transmission
15 and distribution infrastructure and in Smart Grid
16 electric system upgrades, including, but not limited
17 to:

18 (i) additional smart meters;

19 (ii) distribution automation;

20 (iii) associated cyber secure data
21 communication network; and

22 (iv) substation micro-processor relay
23 upgrades.

24 For purposes of this Section, "Smart Grid electric system
25 upgrades" shall have the meaning set forth in subsection (a)
26 of Section 16-108.6 of this Act.

1 The investments in the infrastructure investment program
2 described in this subsection (b) shall be incremental to the
3 participating utility's annual capital investment program, as
4 defined by, for purposes of this subsection (b), the
5 participating utility's average capital spend for calendar
6 years 2008, 2009, and 2010 as reported in the applicable
7 Federal Energy Regulatory Commission (FERC) Form 1; provided
8 that where one or more utilities have merged, the average
9 capital spend shall be determined using the aggregate of the
10 merged utilities' capital spend reported in FERC Form 1 for
11 the years 2008, 2009, and 2010. A participating utility may
12 add reasonable construction ramp-up and ramp-down time to the
13 investment periods specified in this subsection (b). For each
14 such investment period, the ramp-up and ramp-down time shall
15 not exceed a total of 6 months.

16 Within 60 days after filing a tariff under subsection (c)
17 of this Section, a participating utility shall submit to the
18 Commission its plan, including scope, schedule, and staffing,
19 for satisfying its infrastructure investment program
20 commitments pursuant to this subsection (b). The submitted
21 plan shall include a schedule and staffing plan for the next
22 calendar year. The plan shall also include a plan for the
23 creation, operation, and administration of a Smart Grid test
24 bed as described in subsection (c) of Section 16-108.8. The
25 plan need not allocate the work equally over the respective
26 periods, but should allocate material increments throughout

1 such periods commensurate with the work to be undertaken. No
2 later than April 1 of each subsequent year, the utility shall
3 submit to the Commission a report that includes any updates to
4 the plan, a schedule for the next calendar year, the
5 expenditures made for the prior calendar year and
6 cumulatively, and the number of full-time equivalent jobs
7 created for the prior calendar year and cumulatively. If the
8 utility is materially deficient in satisfying a schedule or
9 staffing plan, then the report must also include a corrective
10 action plan to address the deficiency. The fact that the plan,
11 implementation of the plan, or a schedule changes shall not
12 imply the imprudence or unreasonableness of the infrastructure
13 investment program, plan, or schedule. Further, no later than
14 45 days following the last day of the first, second, and third
15 quarters of each year of the plan, a participating utility
16 shall submit to the Commission a verified quarterly report for
17 the prior quarter that includes (i) the total number of
18 full-time equivalent jobs created during the prior quarter,
19 (ii) the total number of employees as of the last day of the
20 prior quarter, (iii) the total number of full-time equivalent
21 hours in each job classification or job title, (iv) the total
22 number of incremental employees and contractors in support of
23 the investments undertaken pursuant to this subsection (b) for
24 the prior quarter, and (v) any other information that the
25 Commission may require by rule.

26 With respect to the participating utility's peak job

1 commitment, if, after considering the utility's corrective
2 action plan and compliance thereunder, the Commission enters
3 an order finding, after notice and hearing, that a
4 participating utility did not satisfy its peak job commitment
5 described in this subsection (b) for reasons that are
6 reasonably within its control, then the Commission shall also
7 determine, after consideration of the evidence, including, but
8 not limited to, evidence submitted by the Department of
9 Commerce and Economic Opportunity and the utility, the
10 deficiency in the number of full-time equivalent jobs during
11 the peak program year due to such failure. The Commission
12 shall notify the Department of any proceeding that is
13 initiated pursuant to this paragraph. For each full-time
14 equivalent job deficiency during the peak program year that
15 the Commission finds as set forth in this paragraph, the
16 participating utility shall, within 30 days after the entry of
17 the Commission's order, pay \$6,000 to a fund for training
18 grants administered under Section 605-800 of the Department of
19 Commerce and Economic Opportunity Law, which shall not be a
20 recoverable expense.

21 With respect to the participating utility's investment
22 amount commitments, if, after considering the utility's
23 corrective action plan and compliance thereunder, the
24 Commission enters an order finding, after notice and hearing,
25 that a participating utility is not satisfying its investment
26 amount commitments described in this subsection (b), then the

1 utility shall no longer be eligible to annually update the
2 performance-based formula rate tariff pursuant to subsection
3 (d) of this Section. In such event, the then current rates
4 shall remain in effect until such time as new rates are set
5 pursuant to Article IX of this Act, subject to retroactive
6 adjustment, with interest, to reconcile rates charged with
7 actual costs.

8 If the Commission finds that a participating utility is no
9 longer eligible to update the performance-based formula rate
10 tariff pursuant to subsection (d) of this Section, or the
11 performance-based formula rate is otherwise terminated, then
12 the participating utility's voluntary commitments and
13 obligations under this subsection (b) shall immediately
14 terminate, except for the utility's obligation to pay an
15 amount already owed to the fund for training grants pursuant
16 to a Commission order.

17 In meeting the obligations of this subsection (b), to the
18 extent feasible and consistent with State and federal law, the
19 investments under the infrastructure investment program should
20 provide employment opportunities for all segments of the
21 population and workforce, including minority-owned and
22 female-owned business enterprises, and shall not, consistent
23 with State and federal law, discriminate based on race or
24 socioeconomic status.

25 (b-5) Nothing in this Section shall prohibit the
26 Commission from investigating the prudence and reasonableness

1 of the expenditures made under the infrastructure investment
2 program during the annual review required by subsection (d) of
3 this Section and shall, as part of such investigation,
4 determine whether the utility's actual costs under the program
5 are prudent and reasonable. The fact that a participating
6 utility invests more than the minimum amounts specified in
7 subsection (b) of this Section or its plan shall not imply
8 imprudence or unreasonableness.

9 If the participating utility finds that it is implementing
10 its plan for satisfying the infrastructure investment program
11 commitments described in subsection (b) of this Section at a
12 cost below the estimated amounts specified in subsection (b)
13 of this Section, then the utility may file a petition with the
14 Commission requesting that it be permitted to satisfy its
15 commitments by spending less than the estimated amounts
16 specified in subsection (b) of this Section. The Commission
17 shall, after notice and hearing, enter its order approving, or
18 approving as modified, or denying each such petition within
19 150 days after the filing of the petition.

20 In no event, absent General Assembly approval, shall the
21 capital investment costs incurred by a participating utility
22 other than a combination utility in satisfying its
23 infrastructure investment program commitments described in
24 subsection (b) of this Section exceed \$3,000,000,000 or, for a
25 participating utility that is a combination utility,
26 \$720,000,000. If the participating utility's updated cost

1 estimates for satisfying its infrastructure investment program
2 commitments described in subsection (b) of this Section exceed
3 the limitation imposed by this subsection (b-5), then it shall
4 submit a report to the Commission that identifies the
5 increased costs and explains the reason or reasons for the
6 increased costs no later than the year in which the utility
7 estimates it will exceed the limitation. The Commission shall
8 review the report and shall, within 90 days after the
9 participating utility files the report, report to the General
10 Assembly its findings regarding the participating utility's
11 report. If the General Assembly does not amend the limitation
12 imposed by this subsection (b-5), then the utility may modify
13 its plan so as not to exceed the limitation imposed by this
14 subsection (b-5) and may propose corresponding changes to the
15 metrics established pursuant to subparagraphs (5) through (8)
16 of subsection (f) of this Section, and the Commission may
17 modify the metrics and incremental savings goals established
18 pursuant to subsection (f) of this Section accordingly.

19 (b-10) All participating utilities shall make
20 contributions for an energy low-income and support program in
21 accordance with this subsection. Beginning no later than 180
22 days after a participating utility files a performance-based
23 formula rate tariff pursuant to subsection (c) of this
24 Section, or beginning no later than January 1, 2012 if such
25 utility files such performance-based formula rate tariff
26 within 14 days of December 30, 2011 (the effective date of

1 Public Act 97-646), and without obtaining any approvals from
2 the Commission or any other agency other than as set forth in
3 this Section, regardless of whether any such approval would
4 otherwise be required, a participating utility other than a
5 combination utility shall pay \$10,000,000 per year for 5 years
6 and a participating utility that is a combination utility
7 shall pay \$1,000,000 per year for 10 years to the energy
8 low-income and support program, which is intended to fund
9 customer assistance programs with the primary purpose being
10 avoidance of imminent disconnection. Such programs may
11 include:

12 (1) a residential hardship program that may partner
13 with community-based organizations, including senior
14 citizen organizations, and provides grants to low-income
15 residential customers, including low-income senior
16 citizens, who demonstrate a hardship;

17 (2) a program that provides grants and other bill
18 payment concessions to veterans with disabilities who
19 demonstrate a hardship and members of the armed services
20 or reserve forces of the United States or members of the
21 Illinois National Guard who are on active duty pursuant to
22 an executive order of the President of the United States,
23 an act of the Congress of the United States, or an order of
24 the Governor and who demonstrate a hardship;

25 (3) a budget assistance program that provides tools
26 and education to low-income senior citizens to assist them

1 with obtaining information regarding energy usage and
2 effective means of managing energy costs;

3 (4) a non-residential special hardship program that
4 provides grants to non-residential customers such as small
5 businesses and non-profit organizations that demonstrate a
6 hardship, including those providing services to senior
7 citizen and low-income customers; and

8 (5) a performance-based assistance program that
9 provides grants to encourage residential customers to make
10 on-time payments by matching a portion of the customer's
11 payments or providing credits towards arrearages.

12 The payments made by a participating utility pursuant to
13 this subsection (b-10) shall not be a recoverable expense. A
14 participating utility may elect to fund either new or existing
15 customer assistance programs, including, but not limited to,
16 those that are administered by the utility.

17 Programs that use funds that are provided by a
18 participating utility to reduce utility bills may be
19 implemented through tariffs that are filed with and reviewed
20 by the Commission. If a utility elects to file tariffs with the
21 Commission to implement all or a portion of the programs,
22 those tariffs shall, regardless of the date actually filed, be
23 deemed accepted and approved, and shall become effective on
24 December 30, 2011 (the effective date of Public Act 97-646).
25 The participating utilities whose customers benefit from the
26 funds that are disbursed as contemplated in this Section shall

1 file annual reports documenting the disbursement of those
2 funds with the Commission. The Commission has the authority to
3 audit disbursement of the funds to ensure they were disbursed
4 consistently with this Section.

5 If the Commission finds that a participating utility is no
6 longer eligible to update the performance-based formula rate
7 tariff pursuant to subsection (d) of this Section, or the
8 performance-based formula rate is otherwise terminated, then
9 the participating utility's voluntary commitments and
10 obligations under this subsection (b-10) shall immediately
11 terminate.

12 (c) A participating utility may elect to recover its
13 delivery services costs through a performance-based formula
14 rate approved by the Commission, which shall specify the cost
15 components that form the basis of the rate charged to
16 customers with sufficient specificity to operate in a
17 standardized manner and be updated annually with transparent
18 information that reflects the utility's actual costs to be
19 recovered during the applicable rate year, which is the period
20 beginning with the first billing day of January and extending
21 through the last billing day of the following December. In the
22 event the utility recovers a portion of its costs through
23 automatic adjustment clause tariffs on October 26, 2011 (the
24 effective date of Public Act 97-616), the utility may elect to
25 continue to recover these costs through such tariffs, but then
26 these costs shall not be recovered through the

1 performance-based formula rate. In the event the participating
2 utility, prior to December 30, 2011 (the effective date of
3 Public Act 97-646), filed electric delivery services tariffs
4 with the Commission pursuant to Section 9-201 of this Act that
5 are related to the recovery of its electric delivery services
6 costs that are still pending on December 30, 2011 (the
7 effective date of Public Act 97-646), the participating
8 utility shall, at the time it files its performance-based
9 formula rate tariff with the Commission, also file a notice of
10 withdrawal with the Commission to withdraw the electric
11 delivery services tariffs previously filed pursuant to Section
12 9-201 of this Act. Upon receipt of such notice, the Commission
13 shall dismiss with prejudice any docket that had been
14 initiated to investigate the electric delivery services
15 tariffs filed pursuant to Section 9-201 of this Act, and such
16 tariffs and the record related thereto shall not be the
17 subject of any further hearing, investigation, or proceeding
18 of any kind related to rates for electric delivery services.

19 The performance-based formula rate shall be implemented
20 through a tariff filed with the Commission consistent with the
21 provisions of this subsection (c) that shall be applicable to
22 all delivery services customers. The Commission shall initiate
23 and conduct an investigation of the tariff in a manner
24 consistent with the provisions of this subsection (c) and the
25 provisions of Article IX of this Act to the extent they do not
26 conflict with this subsection (c). Except in the case where

1 the Commission finds, after notice and hearing, that a
2 participating utility is not satisfying its investment amount
3 commitments under subsection (b) of this Section, the
4 performance-based formula rate shall remain in effect at the
5 discretion of the utility. The performance-based formula rate
6 approved by the Commission shall do the following:

7 (1) Provide for the recovery of the utility's actual
8 costs of delivery services that are prudently incurred and
9 reasonable in amount consistent with Commission practice
10 and law. The sole fact that a cost differs from that
11 incurred in a prior calendar year or that an investment is
12 different from that made in a prior calendar year shall
13 not imply the imprudence or unreasonableness of that cost
14 or investment.

15 (2) Reflect the utility's actual year-end capital
16 structure for the applicable calendar year, excluding
17 goodwill, subject to a determination of prudence and
18 reasonableness consistent with Commission practice and
19 law. To enable the financing of the incremental capital
20 expenditures, including regulatory assets, for electric
21 utilities that serve less than 3,000,000 retail customers
22 but more than 500,000 retail customers in the State, a
23 participating electric utility's actual year-end capital
24 structure that includes a common equity ratio, excluding
25 goodwill, of up to and including 50% of the total capital
26 structure shall be deemed reasonable and used to set

1 rates.

2 (3) Include a cost of equity, which shall be
3 calculated as the sum of the following:

4 (A) the average for the applicable calendar year
5 of the monthly average yields of 30-year U.S. Treasury
6 bonds published by the Board of Governors of the
7 Federal Reserve System in its weekly H.15 Statistical
8 Release or successor publication; and

9 (B) 580 basis points.

10 At such time as the Board of Governors of the Federal
11 Reserve System ceases to include the monthly average
12 yields of 30-year U.S. Treasury bonds in its weekly H.15
13 Statistical Release or successor publication, the monthly
14 average yields of the U.S. Treasury bonds then having the
15 longest duration published by the Board of Governors in
16 its weekly H.15 Statistical Release or successor
17 publication shall instead be used for purposes of this
18 paragraph (3).

19 (4) Permit and set forth protocols, subject to a
20 determination of prudence and reasonableness consistent
21 with Commission practice and law, for the following:

22 (A) recovery of incentive compensation expense
23 that is based on the achievement of operational
24 metrics, including metrics related to budget controls,
25 outage duration and frequency, safety, customer
26 service, efficiency and productivity, and

1 environmental compliance. Incentive compensation
2 expense that is based on net income or an affiliate's
3 earnings per share shall not be recoverable under the
4 performance-based formula rate;

5 (B) recovery of pension and other post-employment
6 benefits expense, provided that such costs are
7 supported by an actuarial study;

8 (C) recovery of severance costs, provided that if
9 the amount is over \$3,700,000 for a participating
10 utility that is a combination utility or \$10,000,000
11 for a participating utility that serves more than 3
12 million retail customers, then the full amount shall
13 be amortized consistent with subparagraph (F) of this
14 paragraph (4);

15 (D) investment return at a rate equal to the
16 utility's weighted average cost of long-term debt, on
17 the pension assets as, and in the amount, reported in
18 Account 186 (or in such other Account or Accounts as
19 such asset may subsequently be recorded) of the
20 utility's most recently filed FERC Form 1, net of
21 deferred tax benefits;

22 (E) recovery of the expenses related to the
23 Commission proceeding under this subsection (c) to
24 approve this performance-based formula rate and
25 initial rates or to subsequent proceedings related to
26 the formula, provided that the recovery shall be

1 amortized over a 3-year period; recovery of expenses
2 related to the annual Commission proceedings under
3 subsection (d) of this Section to review the inputs to
4 the performance-based formula rate shall be expensed
5 and recovered through the performance-based formula
6 rate;

7 (F) amortization over a 5-year period of the full
8 amount of each charge or credit that exceeds
9 \$3,700,000 for a participating utility that is a
10 combination utility or \$10,000,000 for a participating
11 utility that serves more than 3 million retail
12 customers in the applicable calendar year and that
13 relates to a workforce reduction program's severance
14 costs, changes in accounting rules, changes in law,
15 compliance with any Commission-initiated audit, or a
16 single storm or other similar expense, provided that
17 any unamortized balance shall be reflected in rate
18 base. For purposes of this subparagraph (F), changes
19 in law includes any enactment, repeal, or amendment in
20 a law, ordinance, rule, regulation, interpretation,
21 permit, license, consent, or order, including those
22 relating to taxes, accounting, or to environmental
23 matters, or in the interpretation or application
24 thereof by any governmental authority occurring after
25 October 26, 2011 (the effective date of Public Act
26 97-616);

1 (G) recovery of existing regulatory assets over
2 the periods previously authorized by the Commission;

3 (H) historical weather normalized billing
4 determinants; and

5 (I) allocation methods for common costs.

6 (5) Provide that if the participating utility's earned
7 rate of return on common equity related to the provision
8 of delivery services for the prior rate year (calculated
9 using costs and capital structure approved by the
10 Commission as provided in subparagraph (2) of this
11 subsection (c), consistent with this Section, in
12 accordance with Commission rules and orders, including,
13 but not limited to, adjustments for goodwill, and after
14 any Commission-ordered disallowances and taxes) is more
15 than 50 basis points higher than the rate of return on
16 common equity calculated pursuant to paragraph (3) of this
17 subsection (c) (after adjusting for any penalties to the
18 rate of return on common equity applied pursuant to the
19 performance metrics provision of subsection (f) of this
20 Section), then the participating utility shall apply a
21 credit through the performance-based formula rate that
22 reflects an amount equal to the value of that portion of
23 the earned rate of return on common equity that is more
24 than 50 basis points higher than the rate of return on
25 common equity calculated pursuant to paragraph (3) of this
26 subsection (c) (after adjusting for any penalties to the

1 rate of return on common equity applied pursuant to the
2 performance metrics provision of subsection (f) of this
3 Section) for the prior rate year, adjusted for taxes. If
4 the participating utility's earned rate of return on
5 common equity related to the provision of delivery
6 services for the prior rate year (calculated using costs
7 and capital structure approved by the Commission as
8 provided in subparagraph (2) of this subsection (c),
9 consistent with this Section, in accordance with
10 Commission rules and orders, including, but not limited
11 to, adjustments for goodwill, and after any
12 Commission-ordered disallowances and taxes) is more than
13 50 basis points less than the return on common equity
14 calculated pursuant to paragraph (3) of this subsection
15 (c) (after adjusting for any penalties to the rate of
16 return on common equity applied pursuant to the
17 performance metrics provision of subsection (f) of this
18 Section), then the participating utility shall apply a
19 charge through the performance-based formula rate that
20 reflects an amount equal to the value of that portion of
21 the earned rate of return on common equity that is more
22 than 50 basis points less than the rate of return on common
23 equity calculated pursuant to paragraph (3) of this
24 subsection (c) (after adjusting for any penalties to the
25 rate of return on common equity applied pursuant to the
26 performance metrics provision of subsection (f) of this

1 Section) for the prior rate year, adjusted for taxes.

2 (6) Provide for an annual reconciliation, as described
3 in subsection (d) of this Section, with interest, of the
4 revenue requirement reflected in rates for each calendar
5 year, beginning with the calendar year in which the
6 utility files its performance-based formula rate tariff
7 pursuant to subsection (c) of this Section, with what the
8 revenue requirement would have been had the actual cost
9 information for the applicable calendar year been
10 available at the filing date.

11 The utility shall file, together with its tariff, final
12 data based on its most recently filed FERC Form 1, plus
13 projected plant additions and correspondingly updated
14 depreciation reserve and expense for the calendar year in
15 which the tariff and data are filed, that shall populate the
16 performance-based formula rate and set the initial delivery
17 services rates under the formula. For purposes of this
18 Section, "FERC Form 1" means the Annual Report of Major
19 Electric Utilities, Licensees and Others that electric
20 utilities are required to file with the Federal Energy
21 Regulatory Commission under the Federal Power Act, Sections 3,
22 4(a), 304 and 209, modified as necessary to be consistent with
23 83 Ill. Admin. Code Part 415 as of May 1, 2011. Nothing in this
24 Section is intended to allow costs that are not otherwise
25 recoverable to be recoverable by virtue of inclusion in FERC
26 Form 1.

1 After the utility files its proposed performance-based
2 formula rate structure and protocols and initial rates, the
3 Commission shall initiate a docket to review the filing. The
4 Commission shall enter an order approving, or approving as
5 modified, the performance-based formula rate, including the
6 initial rates, as just and reasonable within 270 days after
7 the date on which the tariff was filed, or, if the tariff is
8 filed within 14 days after October 26, 2011 (the effective
9 date of Public Act 97-616), then by May 31, 2012. Such review
10 shall be based on the same evidentiary standards, including,
11 but not limited to, those concerning the prudence and
12 reasonableness of the costs incurred by the utility, the
13 Commission applies in a hearing to review a filing for a
14 general increase in rates under Article IX of this Act. The
15 initial rates shall take effect within 30 days after the
16 Commission's order approving the performance-based formula
17 rate tariff.

18 Until such time as the Commission approves a different
19 rate design and cost allocation pursuant to subsection (e) of
20 this Section, rate design and cost allocation across customer
21 classes shall be consistent with the Commission's most recent
22 order regarding the participating utility's request for a
23 general increase in its delivery services rates.

24 Subsequent changes to the performance-based formula rate
25 structure or protocols shall be made as set forth in Section
26 9-201 of this Act, but nothing in this subsection (c) is

1 intended to limit the Commission's authority under Article IX
2 and other provisions of this Act to initiate an investigation
3 of a participating utility's performance-based formula rate
4 tariff, provided that any such changes shall be consistent
5 with paragraphs (1) through (6) of this subsection (c). Any
6 change ordered by the Commission shall be made at the same time
7 new rates take effect following the Commission's next order
8 pursuant to subsection (d) of this Section, provided that the
9 new rates take effect no less than 30 days after the date on
10 which the Commission issues an order adopting the change.

11 A participating utility that files a tariff pursuant to
12 this subsection (c) must submit a one-time \$200,000 filing fee
13 at the time the Chief Clerk of the Commission accepts the
14 filing, which shall be a recoverable expense.

15 In the event the performance-based formula rate is
16 terminated, the then current rates shall remain in effect
17 until such time as new rates are set pursuant to Article IX of
18 this Act, subject to retroactive rate adjustment, with
19 interest, to reconcile rates charged with actual costs. At
20 such time that the performance-based formula rate is
21 terminated, the participating utility's voluntary commitments
22 and obligations under subsection (b) of this Section shall
23 immediately terminate, except for the utility's obligation to
24 pay an amount already owed to the fund for training grants
25 pursuant to a Commission order issued under subsection (b) of
26 this Section.

1 (d) Subsequent to the Commission's issuance of an order
2 approving the utility's performance-based formula rate
3 structure and protocols, and initial rates under subsection
4 (c) of this Section, the utility shall file, on or before May 1
5 of each year, with the Chief Clerk of the Commission its
6 updated cost inputs to the performance-based formula rate for
7 the applicable rate year and the corresponding new charges.
8 Each such filing shall conform to the following requirements
9 and include the following information:

10 (1) The inputs to the performance-based formula rate
11 for the applicable rate year shall be based on final
12 historical data reflected in the utility's most recently
13 filed annual FERC Form 1 plus projected plant additions
14 and correspondingly updated depreciation reserve and
15 expense for the calendar year in which the inputs are
16 filed. The filing shall also include a reconciliation of
17 the revenue requirement that was in effect for the prior
18 rate year (as set by the cost inputs for the prior rate
19 year) with the actual revenue requirement for the prior
20 rate year (determined using a year-end rate base) that
21 uses amounts reflected in the applicable FERC Form 1 that
22 reports the actual costs for the prior rate year. Any
23 over-collection or under-collection indicated by such
24 reconciliation shall be reflected as a credit against, or
25 recovered as an additional charge to, respectively, with
26 interest calculated at a rate equal to the utility's

1 weighted average cost of capital approved by the
2 Commission for the prior rate year, the charges for the
3 applicable rate year. Provided, however, that the first
4 such reconciliation shall be for the calendar year in
5 which the utility files its performance-based formula rate
6 tariff pursuant to subsection (c) of this Section and
7 shall reconcile (i) the revenue requirement or
8 requirements established by the rate order or orders in
9 effect from time to time during such calendar year
10 (weighted, as applicable) with (ii) the revenue
11 requirement determined using a year-end rate base for that
12 calendar year calculated pursuant to the performance-based
13 formula rate using (A) actual costs for that year as
14 reflected in the applicable FERC Form 1, and (B) for the
15 first such reconciliation only, the cost of equity, which
16 shall be calculated as the sum of 590 basis points plus the
17 average for the applicable calendar year of the monthly
18 average yields of 30-year U.S. Treasury bonds published by
19 the Board of Governors of the Federal Reserve System in
20 its weekly H.15 Statistical Release or successor
21 publication. The first such reconciliation is not intended
22 to provide for the recovery of costs previously excluded
23 from rates based on a prior Commission order finding of
24 imprudence or unreasonableness. Each reconciliation shall
25 be certified by the participating utility in the same
26 manner that FERC Form 1 is certified. The filing shall

1 also include the charge or credit, if any, resulting from
2 the calculation required by paragraph (6) of subsection
3 (c) of this Section.

4 Notwithstanding anything that may be to the contrary,
5 the intent of the reconciliation is to ultimately
6 reconcile the revenue requirement reflected in rates for
7 each calendar year, beginning with the calendar year in
8 which the utility files its performance-based formula rate
9 tariff pursuant to subsection (c) of this Section, with
10 what the revenue requirement determined using a year-end
11 rate base for the applicable calendar year would have been
12 had the actual cost information for the applicable
13 calendar year been available at the filing date.

14 (2) The new charges shall take effect beginning on the
15 first billing day of the following January billing period
16 and remain in effect through the last billing day of the
17 next December billing period regardless of whether the
18 Commission enters upon a hearing pursuant to this
19 subsection (d).

20 (3) The filing shall include relevant and necessary
21 data and documentation for the applicable rate year that
22 is consistent with the Commission's rules applicable to a
23 filing for a general increase in rates or any rules
24 adopted by the Commission to implement this Section.
25 Normalization adjustments shall not be required.
26 Notwithstanding any other provision of this Section or Act

1 or any rule or other requirement adopted by the
2 Commission, a participating utility that is a combination
3 utility with more than one rate zone shall not be required
4 to file a separate set of such data and documentation for
5 each rate zone and may combine such data and documentation
6 into a single set of schedules.

7 Within 45 days after the utility files its annual update
8 of cost inputs to the performance-based formula rate, the
9 Commission shall have the authority, either upon complaint or
10 its own initiative, but with reasonable notice, to enter upon
11 a hearing concerning the prudence and reasonableness of the
12 costs incurred by the utility to be recovered during the
13 applicable rate year that are reflected in the inputs to the
14 performance-based formula rate derived from the utility's FERC
15 Form 1. During the course of the hearing, each objection shall
16 be stated with particularity and evidence provided in support
17 thereof, after which the utility shall have the opportunity to
18 rebut the evidence. Discovery shall be allowed consistent with
19 the Commission's Rules of Practice, which Rules shall be
20 enforced by the Commission or the assigned administrative law
21 judge. The Commission shall apply the same evidentiary
22 standards, including, but not limited to, those concerning the
23 prudence and reasonableness of the costs incurred by the
24 utility, in the hearing as it would apply in a hearing to
25 review a filing for a general increase in rates under Article
26 IX of this Act. The Commission shall not, however, have the

1 authority in a proceeding under this subsection (d) to
2 consider or order any changes to the structure or protocols of
3 the performance-based formula rate approved pursuant to
4 subsection (c) of this Section. In a proceeding under this
5 subsection (d), the Commission shall enter its order no later
6 than the earlier of 240 days after the utility's filing of its
7 annual update of cost inputs to the performance-based formula
8 rate or December 31. The Commission's determinations of the
9 prudence and reasonableness of the costs incurred for the
10 applicable calendar year shall be final upon entry of the
11 Commission's order and shall not be subject to reopening,
12 reexamination, or collateral attack in any other Commission
13 proceeding, case, docket, order, rule or regulation, provided,
14 however, that nothing in this subsection (d) shall prohibit a
15 party from petitioning the Commission to rehear or appeal to
16 the courts the order pursuant to the provisions of this Act.

17 In the event the Commission does not, either upon
18 complaint or its own initiative, enter upon a hearing within
19 45 days after the utility files the annual update of cost
20 inputs to its performance-based formula rate, then the costs
21 incurred for the applicable calendar year shall be deemed
22 prudent and reasonable, and the filed charges shall not be
23 subject to reopening, reexamination, or collateral attack in
24 any other proceeding, case, docket, order, rule, or
25 regulation.

26 A participating utility's first filing of the updated cost

1 inputs, and any Commission investigation of such inputs
2 pursuant to this subsection (d) shall proceed notwithstanding
3 the fact that the Commission's investigation under subsection
4 (c) of this Section is still pending and notwithstanding any
5 other law, order, rule, or Commission practice to the
6 contrary.

7 (e) Nothing in subsections (c) or (d) of this Section
8 shall prohibit the Commission from investigating, or a
9 participating utility from filing, revenue-neutral tariff
10 changes related to rate design of a performance-based formula
11 rate that has been placed into effect for the utility.
12 Following approval of a participating utility's
13 performance-based formula rate tariff pursuant to subsection
14 (c) of this Section, the utility shall make a filing with the
15 Commission within one year after the effective date of the
16 performance-based formula rate tariff that proposes changes to
17 the tariff to incorporate the findings of any final rate
18 design orders of the Commission applicable to the
19 participating utility and entered subsequent to the
20 Commission's approval of the tariff. The Commission shall,
21 after notice and hearing, enter its order approving, or
22 approving with modification, the proposed changes to the
23 performance-based formula rate tariff within 240 days after
24 the utility's filing. Following such approval, the utility
25 shall make a filing with the Commission during each subsequent
26 3-year period that either proposes revenue-neutral tariff

1 changes or re-files the existing tariffs without change, which
2 shall present the Commission with an opportunity to suspend
3 the tariffs and consider revenue-neutral tariff changes
4 related to rate design.

5 (f) Within 30 days after the filing of a tariff pursuant to
6 subsection (c) of this Section, each participating utility
7 shall develop and file with the Commission multi-year metrics
8 designed to achieve, ratably (i.e., in equal segments) over a
9 10-year period, improvement over baseline performance values
10 as follows:

11 (1) Twenty percent improvement in the System Average
12 Interruption Frequency Index, using a baseline of the
13 average of the data from 2001 through 2010.

14 (2) Fifteen percent improvement in the system Customer
15 Average Interruption Duration Index, using a baseline of
16 the average of the data from 2001 through 2010.

17 (3) For a participating utility other than a
18 combination utility, 20% improvement in the System Average
19 Interruption Frequency Index for its Southern Region,
20 using a baseline of the average of the data from 2001
21 through 2010. For purposes of this paragraph (3), Southern
22 Region shall have the meaning set forth in the
23 participating utility's most recent report filed pursuant
24 to Section 16-125 of this Act.

25 (3.5) For a participating utility other than a
26 combination utility, 20% improvement in the System Average

1 Interruption Frequency Index for its Northeastern Region,
2 using a baseline of the average of the data from 2001
3 through 2010. For purposes of this paragraph (3.5),
4 Northeastern Region shall have the meaning set forth in
5 the participating utility's most recent report filed
6 pursuant to Section 16-125 of this Act.

7 (4) Seventy-five percent improvement in the total
8 number of customers who exceed the service reliability
9 targets as set forth in subparagraphs (A) through (C) of
10 paragraph (4) of subsection (b) of 83 Ill. Admin. Code
11 Part 411.140 as of May 1, 2011, using 2010 as the baseline
12 year.

13 (5) Reduction in issuance of estimated electric bills:
14 90% improvement for a participating utility other than a
15 combination utility, and 56% improvement for a
16 participating utility that is a combination utility, using
17 a baseline of the average number of estimated bills for
18 the years 2008 through 2010.

19 (6) Consumption on inactive meters: 90% improvement
20 for a participating utility other than a combination
21 utility, and 56% improvement for a participating utility
22 that is a combination utility, using a baseline of the
23 average unbilled kilowatthours for the years 2009 and
24 2010.

25 (7) Unaccounted for energy: 50% improvement for a
26 participating utility other than a combination utility

1 using a baseline of the non-technical line loss
2 unaccounted for energy kilowatthours for the year 2009.

3 (8) Uncollectible expense: reduce uncollectible
4 expense by at least \$30,000,000 for a participating
5 utility other than a combination utility and by at least
6 \$3,500,000 for a participating utility that is a
7 combination utility, using a baseline of the average
8 uncollectible expense for the years 2008 through 2010.

9 (9) Opportunities for minority-owned and female-owned
10 business enterprises: design a performance metric
11 regarding the creation of opportunities for minority-owned
12 and female-owned business enterprises consistent with
13 State and federal law using a base performance value of
14 the percentage of the participating utility's capital
15 expenditures that were paid to minority-owned and
16 female-owned business enterprises in 2010.

17 The definitions set forth in 83 Ill. Admin. Code Part
18 411.20 as of May 1, 2011 shall be used for purposes of
19 calculating performance under paragraphs (1) through (3.5) of
20 this subsection (f), provided, however, that the participating
21 utility may exclude up to 9 extreme weather event days from
22 such calculation for each year, and provided further that the
23 participating utility shall exclude 9 extreme weather event
24 days when calculating each year of the baseline period to the
25 extent that there are 9 such days in a given year of the
26 baseline period. For purposes of this Section, an extreme

1 weather event day is a 24-hour calendar day (beginning at
2 12:00 a.m. and ending at 11:59 p.m.) during which any weather
3 event (e.g., storm, tornado) caused interruptions for 10,000
4 or more of the participating utility's customers for 3 hours
5 or more. If there are more than 9 extreme weather event days in
6 a year, then the utility may choose no more than 9 extreme
7 weather event days to exclude, provided that the same extreme
8 weather event days are excluded from each of the calculations
9 performed under paragraphs (1) through (3.5) of this
10 subsection (f).

11 The metrics shall include incremental performance goals
12 for each year of the 10-year period, which shall be designed to
13 demonstrate that the utility is on track to achieve the
14 performance goal in each category at the end of the 10-year
15 period. The utility shall elect when the 10-year period shall
16 commence for the metrics set forth in subparagraphs (1)
17 through (4) and (9) of this subsection (f), provided that it
18 begins no later than 14 months following the date on which the
19 utility begins investing pursuant to subsection (b) of this
20 Section, and when the 10-year period shall commence for the
21 metrics set forth in subparagraphs (5) through (8) of this
22 subsection (f), provided that it begins no later than 14
23 months following the date on which the Commission enters its
24 order approving the utility's Advanced Metering Infrastructure
25 Deployment Plan pursuant to subsection (c) of Section 16-108.6
26 of this Act.

1 The metrics and performance goals set forth in
2 subparagraphs (5) through (8) of this subsection (f) are based
3 on the assumptions that the participating utility may fully
4 implement the technology described in subsection (b) of this
5 Section, including utilizing the full functionality of such
6 technology and that there is no requirement for personal
7 on-site notification. If the utility is unable to meet the
8 metrics and performance goals set forth in subparagraphs (5)
9 through (8) of this subsection (f) for such reasons, and the
10 Commission so finds after notice and hearing, then the utility
11 shall be excused from compliance, but only to the limited
12 extent achievement of the affected metrics and performance
13 goals was hindered by the less than full implementation.

14 (f-5) The financial penalties applicable to the metrics
15 described in subparagraphs (1) through (8) of subsection (f)
16 of this Section, as applicable, shall be applied through an
17 adjustment to the participating utility's return on equity of
18 no more than a total of 30 basis points in each of the first 3
19 years, of no more than a total of 34 basis points in each of
20 the 3 years thereafter, and of no more than a total of 38 basis
21 points in each of the 4 years thereafter, as follows:

22 (1) With respect to each of the incremental annual
23 performance goals established pursuant to paragraph (1) of
24 subsection (f) of this Section,

25 (A) for each year that a participating utility
26 other than a combination utility does not achieve the

1 annual goal, the participating utility's return on
2 equity shall be reduced as follows: during years 1
3 through 3, by 5 basis points; during years 4 through 6,
4 by 6 basis points; and during years 7 through 10, by 7
5 basis points; and

6 (B) for each year that a participating utility
7 that is a combination utility does not achieve the
8 annual goal, the participating utility's return on
9 equity shall be reduced as follows: during years 1
10 through 3, by 10 basis points; during years 4 through
11 6, by 12 basis points; and during years 7 through 10,
12 by 14 basis points.

13 (2) With respect to each of the incremental annual
14 performance goals established pursuant to paragraph (2) of
15 subsection (f) of this Section, for each year that the
16 participating utility does not achieve each such goal, the
17 participating utility's return on equity shall be reduced
18 as follows: during years 1 through 3, by 5 basis points;
19 during years 4 through 6, by 6 basis points; and during
20 years 7 through 10, by 7 basis points.

21 (3) With respect to each of the incremental annual
22 performance goals established pursuant to paragraphs (3)
23 and (3.5) of subsection (f) of this Section, for each year
24 that a participating utility other than a combination
25 utility does not achieve both such goals, the
26 participating utility's return on equity shall be reduced

1 as follows: during years 1 through 3, by 5 basis points;
2 during years 4 through 6, by 6 basis points; and during
3 years 7 through 10, by 7 basis points.

4 (4) With respect to each of the incremental annual
5 performance goals established pursuant to paragraph (4) of
6 subsection (f) of this Section, for each year that the
7 participating utility does not achieve each such goal, the
8 participating utility's return on equity shall be reduced
9 as follows: during years 1 through 3, by 5 basis points;
10 during years 4 through 6, by 6 basis points; and during
11 years 7 through 10, by 7 basis points.

12 (5) With respect to each of the incremental annual
13 performance goals established pursuant to subparagraph (5)
14 of subsection (f) of this Section, for each year that the
15 participating utility does not achieve at least 95% of
16 each such goal, the participating utility's return on
17 equity shall be reduced by 5 basis points for each such
18 unachieved goal.

19 (6) With respect to each of the incremental annual
20 performance goals established pursuant to paragraphs (6),
21 (7), and (8) of subsection (f) of this Section, as
22 applicable, which together measure non-operational
23 customer savings and benefits relating to the
24 implementation of the Advanced Metering Infrastructure
25 Deployment Plan, as defined in Section 16-108.6 of this
26 Act, the performance under each such goal shall be

1 calculated in terms of the percentage of the goal
2 achieved. The percentage of goal achieved for each of the
3 goals shall be aggregated, and an average percentage value
4 calculated, for each year of the 10-year period. If the
5 utility does not achieve an average percentage value in a
6 given year of at least 95%, the participating utility's
7 return on equity shall be reduced by 5 basis points.

8 The financial penalties shall be applied as described in
9 this subsection (f-5) for the 12-month period in which the
10 deficiency occurred through a separate tariff mechanism, which
11 shall be filed by the utility together with its metrics. In the
12 event the formula rate tariff established pursuant to
13 subsection (c) of this Section terminates, the utility's
14 obligations under subsection (f) of this Section and this
15 subsection (f-5) shall also terminate, provided, however, that
16 the tariff mechanism established pursuant to subsection (f) of
17 this Section and this subsection (f-5) shall remain in effect
18 until any penalties due and owing at the time of such
19 termination are applied.

20 The Commission shall, after notice and hearing, enter an
21 order within 120 days after the metrics are filed approving,
22 or approving with modification, a participating utility's
23 tariff or mechanism to satisfy the metrics set forth in
24 subsection (f) of this Section. On June 1 of each subsequent
25 year, each participating utility shall file a report with the
26 Commission that includes, among other things, a description of

1 how the participating utility performed under each metric and
2 an identification of any extraordinary events that adversely
3 impacted the utility's performance. Whenever a participating
4 utility does not satisfy the metrics required pursuant to
5 subsection (f) of this Section, the Commission shall, after
6 notice and hearing, enter an order approving financial
7 penalties in accordance with this subsection (f-5). The
8 Commission-approved financial penalties shall be applied
9 beginning with the next rate year. Nothing in this Section
10 shall authorize the Commission to reduce or otherwise obviate
11 the imposition of financial penalties for failing to achieve
12 one or more of the metrics established pursuant to
13 subparagraph (1) through (4) of subsection (f) of this
14 Section.

15 (g) On or before July 31, 2014, each participating utility
16 shall file a report with the Commission that sets forth the
17 average annual increase in the average amount paid per
18 kilowatthour for residential eligible retail customers,
19 exclusive of the effects of energy efficiency programs,
20 comparing the 12-month period ending May 31, 2012; the
21 12-month period ending May 31, 2013; and the 12-month period
22 ending May 31, 2014. For a participating utility that is a
23 combination utility with more than one rate zone, the weighted
24 average aggregate increase shall be provided. The report shall
25 be filed together with a statement from an independent auditor
26 attesting to the accuracy of the report. The cost of the

1 independent auditor shall be borne by the participating
2 utility and shall not be a recoverable expense. "The average
3 amount paid per kilowatthour" shall be based on the
4 participating utility's tariffed rates actually in effect and
5 shall not be calculated using any hypothetical rate or
6 adjustments to actual charges (other than as specified for
7 energy efficiency) as an input.

8 In the event that the average annual increase exceeds 2.5%
9 as calculated pursuant to this subsection (g), then Sections
10 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of this Act, other
11 than this subsection, shall be inoperative as they relate to
12 the utility and its service area as of the date of the report
13 due to be submitted pursuant to this subsection and the
14 utility shall no longer be eligible to annually update the
15 performance-based formula rate tariff pursuant to subsection
16 (d) of this Section. In such event, the then current rates
17 shall remain in effect until such time as new rates are set
18 pursuant to Article IX of this Act, subject to retroactive
19 adjustment, with interest, to reconcile rates charged with
20 actual costs, and the participating utility's voluntary
21 commitments and obligations under subsection (b) of this
22 Section shall immediately terminate, except for the utility's
23 obligation to pay an amount already owed to the fund for
24 training grants pursuant to a Commission order issued under
25 subsection (b) of this Section.

26 In the event that the average annual increase is 2.5% or

1 less as calculated pursuant to this subsection (g), then the
2 performance-based formula rate shall remain in effect as set
3 forth in this Section.

4 For purposes of this Section, the amount per kilowatthour
5 means the total amount paid for electric service expressed on
6 a per kilowatthour basis, and the total amount paid for
7 electric service includes without limitation amounts paid for
8 supply, transmission, distribution, surcharges, and add-on
9 taxes exclusive of any increases in taxes or new taxes imposed
10 after October 26, 2011 (the effective date of Public Act
11 97-616). For purposes of this Section, "eligible retail
12 customers" shall have the meaning set forth in Section
13 16-111.5 of this Act.

14 The fact that this Section becomes inoperative as set
15 forth in this subsection shall not be construed to mean that
16 the Commission may reexamine or otherwise reopen prudence or
17 reasonableness determinations already made.

18 (h) By December 31, 2017, the Commission shall prepare and
19 file with the General Assembly a report on the infrastructure
20 program and the performance-based formula rate. The report
21 shall include the change in the average amount per
22 kilowatthour paid by residential customers between June 1,
23 2011 and May 31, 2017. If the change in the total average rate
24 paid exceeds 2.5% compounded annually, the Commission shall
25 include in the report an analysis that shows the portion of the
26 change due to the delivery services component and the portion

1 of the change due to the supply component of the rate. The
2 report shall include separate sections for each participating
3 utility.

4 Sections 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of
5 this Act, other than this subsection (h) and subsection (i) of
6 this Section, are inoperative after December 31, 2022 for
7 every participating utility, after which time a participating
8 utility shall no longer be eligible to annually update the
9 performance-based formula rate tariff pursuant to subsection
10 (d) of this Section. At such time, the then current rates shall
11 remain in effect until such time as new rates are set pursuant
12 to Article IX of this Act, subject to retroactive adjustment,
13 with interest, to reconcile rates charged with actual costs.

14 The fact that this Section becomes inoperative as set
15 forth in this subsection shall not be construed to mean that
16 the Commission may reexamine or otherwise reopen prudence or
17 reasonableness determinations already made.

18 (i) While a participating utility may use, develop, and
19 maintain broadband systems and the delivery of broadband
20 services, voice-over-internet-protocol services,
21 telecommunications services, and cable and video programming
22 services for use in providing delivery services and Smart Grid
23 functionality or application to its retail customers,
24 including, but not limited to, the installation,
25 implementation and maintenance of Smart Grid electric system
26 upgrades as defined in Section 16-108.6 of this Act, a

1 participating utility is prohibited from providing ~~offering~~ to
2 its retail customers broadband services ~~or the delivery of~~
3 ~~broadband services~~, voice-over-internet-protocol services,
4 telecommunications services, or cable or video programming
5 services, unless they are part of a service directly related
6 to delivery services or Smart Grid functionality or
7 applications as defined in Section 16-108.6 of this Act, and
8 from recovering the costs of such offerings from retail
9 customers. The prohibition set forth in this subsection (i) is
10 inoperative after December 31, 2027 for every participating
11 utility.

12 (j) Nothing in this Section is intended to legislatively
13 overturn the opinion issued in Commonwealth Edison Co. v. Ill.
14 Commerce Comm'n, Nos. 2-08-0959, 2-08-1037, 2-08-1137,
15 1-08-3008, 1-08-3030, 1-08-3054, 1-08-3313 cons. (Ill. App.
16 Ct. 2d Dist. Sept. 30, 2010). Public Act 97-616 shall not be
17 construed as creating a contract between the General Assembly
18 and the participating utility, and shall not establish a
19 property right in the participating utility.

20 (k) The changes made in subsections (c) and (d) of this
21 Section by Public Act 98-15 are intended to be a restatement
22 and clarification of existing law, and intended to give
23 binding effect to the provisions of House Resolution 1157
24 adopted by the House of Representatives of the 97th General
25 Assembly and Senate Resolution 821 adopted by the Senate of
26 the 97th General Assembly that are reflected in paragraph (3)

1 of this subsection. In addition, Public Act 98-15 preempts and
2 supersedes any final Commission orders entered in Docket Nos.
3 11-0721, 12-0001, 12-0293, and 12-0321 to the extent
4 inconsistent with the amendatory language added to subsections
5 (c) and (d).

6 (1) No earlier than 5 business days after May 22, 2013
7 (the effective date of Public Act 98-15), each
8 participating utility shall file any tariff changes
9 necessary to implement the amendatory language set forth
10 in subsections (c) and (d) of this Section by Public Act
11 98-15 and a revised revenue requirement under the
12 participating utility's performance-based formula rate.
13 The Commission shall enter a final order approving such
14 tariff changes and revised revenue requirement within 21
15 days after the participating utility's filing.

16 (2) Notwithstanding anything that may be to the
17 contrary, a participating utility may file a tariff to
18 retroactively recover its previously unrecovered actual
19 costs of delivery service that are no longer subject to
20 recovery through a reconciliation adjustment under
21 subsection (d) of this Section. This retroactive recovery
22 shall include any derivative adjustments resulting from
23 the changes to subsections (c) and (d) of this Section by
24 Public Act 98-15. Such tariff shall allow the utility to
25 assess, on current customer bills over a period of 12
26 monthly billing periods, a charge or credit related to

1 those unrecovered costs with interest at the utility's
2 weighted average cost of capital during the period in
3 which those costs were unrecovered. A participating
4 utility may file a tariff that implements a retroactive
5 charge or credit as described in this paragraph for
6 amounts not otherwise included in the tariff filing
7 provided for in paragraph (1) of this subsection (k). The
8 Commission shall enter a final order approving such tariff
9 within 21 days after the participating utility's filing.

10 (3) The tariff changes described in paragraphs (1) and
11 (2) of this subsection (k) shall relate only to, and be
12 consistent with, the following provisions of Public Act
13 98-15: paragraph (2) of subsection (c) regarding year-end
14 capital structure, subparagraph (D) of paragraph (4) of
15 subsection (c) regarding pension assets, and subsection
16 (d) regarding the reconciliation components related to
17 year-end rate base and interest calculated at a rate equal
18 to the utility's weighted average cost of capital.

19 (4) Nothing in this subsection is intended to effect a
20 dismissal of or otherwise affect an appeal from any final
21 Commission orders entered in Docket Nos. 11-0721, 12-0001,
22 12-0293, and 12-0321 other than to the extent of the
23 amendatory language contained in subsections (c) and (d)
24 of this Section of Public Act 98-15.

25 (1) Each participating utility shall be deemed to have
26 been in full compliance with all requirements of subsection

1 (b) of this Section, subsection (c) of this Section, Section
2 16-108.6 of this Act, and all Commission orders entered
3 pursuant to Sections 16-108.5 and 16-108.6 of this Act, up to
4 and including May 22, 2013 (the effective date of Public Act
5 98-15). The Commission shall not undertake any investigation
6 of such compliance and no penalty shall be assessed or adverse
7 action taken against a participating utility for noncompliance
8 with Commission orders associated with subsection (b) of this
9 Section, subsection (c) of this Section, and Section 16-108.6
10 of this Act prior to such date. Each participating utility
11 other than a combination utility shall be permitted, without
12 penalty, a period of 12 months after such effective date to
13 take actions required to ensure its infrastructure investment
14 program is in compliance with subsection (b) of this Section
15 and with Section 16-108.6 of this Act. Provided further, the
16 following subparagraphs shall apply to a participating utility
17 other than a combination utility:

18 (A) if the Commission has initiated a proceeding
19 pursuant to subsection (e) of Section 16-108.6 of this Act
20 that is pending as of May 22, 2013 (the effective date of
21 Public Act 98-15), then the order entered in such
22 proceeding shall, after notice and hearing, accelerate the
23 commencement of the meter deployment schedule approved in
24 the final Commission order on rehearing entered in Docket
25 No. 12-0298;

26 (B) if the Commission has entered an order pursuant to

1 subsection (e) of Section 16-108.6 of this Act prior to
2 May 22, 2013 (the effective date of Public Act 98-15) that
3 does not accelerate the commencement of the meter
4 deployment schedule approved in the final Commission order
5 on rehearing entered in Docket No. 12-0298, then the
6 utility shall file with the Commission, within 45 days
7 after such effective date, a plan for accelerating the
8 commencement of the utility's meter deployment schedule
9 approved in the final Commission order on rehearing
10 entered in Docket No. 12-0298; the Commission shall reopen
11 the proceeding in which it entered its order pursuant to
12 subsection (e) of Section 16-108.6 of this Act and shall,
13 after notice and hearing, enter an amendatory order that
14 approves or approves as modified such accelerated plan
15 within 90 days after the utility's filing; or

16 (C) if the Commission has not initiated a proceeding
17 pursuant to subsection (e) of Section 16-108.6 of this Act
18 prior to May 22, 2013 (the effective date of Public Act
19 98-15), then the utility shall file with the Commission,
20 within 45 days after such effective date, a plan for
21 accelerating the commencement of the utility's meter
22 deployment schedule approved in the final Commission order
23 on rehearing entered in Docket No. 12-0298 and the
24 Commission shall, after notice and hearing, approve or
25 approve as modified such plan within 90 days after the
26 utility's filing.

1 Any schedule for meter deployment approved by the
2 Commission pursuant to this subsection (l) shall take into
3 consideration procurement times for meters and other equipment
4 and operational issues. Nothing in Public Act 98-15 shall
5 shorten or extend the end dates for the 5-year or 10-year
6 periods set forth in subsection (b) of this Section or Section
7 16-108.6 of this Act. Nothing in this subsection is intended
8 to address whether a participating utility has, or has not,
9 satisfied any or all of the metrics and performance goals
10 established pursuant to subsection (f) of this Section.

11 (m) The provisions of Public Act 98-15 are severable under
12 Section 1.31 of the Statute on Statutes.

13 (Source: P.A. 99-143, eff. 7-27-15; 99-642, eff. 7-28-16;
14 99-906, eff. 6-1-17; 100-840, eff. 8-13-18.)

15 (220 ILCS 5/16-108.30)

16 Sec. 16-108.30. Energy Transition Assistance Fund.

17 (a) The Energy Transition Assistance Fund is hereby
18 created as a special fund in the State Treasury. The Energy
19 Transition Assistance Fund is authorized to receive moneys
20 collected pursuant to this Section. Subject to appropriation,
21 the Department of Commerce and Economic Opportunity shall use
22 moneys from the Energy Transition Assistance Fund consistent
23 with the purposes of this Act.

24 (b) An electric utility serving more than 500,000
25 customers in the State shall assess an energy transition

1 assistance charge on all its retail customers for the Energy
2 Transition Assistance Fund. The utility's total charge shall
3 be set based upon the value determined by the Department of
4 Commerce and Economic Opportunity pursuant to subsection (d)
5 or (e), as applicable, of Section 605-1075 of the Department
6 of Commerce and Economic Opportunity Law of the Civil
7 Administrative Code of Illinois. For each utility, the charge
8 shall be recovered through a single, uniform cents per
9 kilowatt-hour charge applicable to all retail customers. For
10 each utility, the charge shall not exceed 1.3% of the amount
11 paid per kilowatthour by eligible retail ~~those~~ customers
12 during the year ending May 31, 2009.

13 (c) Within 75 days of the effective date of this
14 amendatory Act of the 102nd General Assembly, each electric
15 utility serving more than 500,000 customers in the State shall
16 file with the Illinois Commerce Commission tariffs
17 incorporating the energy transition assistance charge in other
18 charges stated in such tariffs, which energy transition
19 assistance charges shall become effective no later than the
20 beginning of the first billing cycle that begins on or after
21 January 1, 2022. Each electric utility serving more than
22 500,000 customers in the State shall, prior to the beginning
23 of each calendar year starting with calendar year 2023, file
24 with the Illinois Commerce Commission tariff revisions to
25 incorporate annual revisions to the energy transition
26 assistance charge as prescribed by the Department of Commerce

1 and Economic Opportunity pursuant to Section 605-1075 of the
2 Department of Commerce and Economic Opportunity Law of the
3 Civil Administrative Code of Illinois so that such revision
4 becomes effective no later than the beginning of the first
5 billing cycle in each respective year.

6 (d) The energy transition assistance charge shall be
7 considered a charge for public utility service.

8 (e) By the 20th day of the month following the month in
9 which the charges imposed by this Section were collected, each
10 electric utility serving more than 500,000 customers in the
11 State shall remit to Department of Revenue all moneys received
12 as payment of the energy transition assistance charge on a
13 return prescribed and furnished by the Department of Revenue
14 showing such information as the Department of Revenue may
15 reasonably require. If a customer makes a partial payment, a
16 public utility may apply such partial payments first to
17 amounts owed to the utility. No customer may be subjected to
18 disconnection of his or her utility service for failure to pay
19 the energy transition assistance charge.

20 If any payment provided for in this subsection exceeds the
21 electric utility's liabilities under this Act, as shown on an
22 original return, the Department may authorize the electric
23 utility to credit such excess payment against liability
24 subsequently to be remitted to the Department under this Act,
25 in accordance with reasonable rules adopted by the Department.

26 All the provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e,

1 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13
2 of the Retailers' Occupation Tax Act that are not inconsistent
3 with this Act apply, as far as practicable, to the charge
4 imposed by this Act to the same extent as if those provisions
5 were included in this Act. References in the incorporated
6 Sections of the Retailers' Occupation Tax Act to retailers, to
7 sellers, or to persons engaged in the business of selling
8 tangible personal property mean persons required to remit the
9 charge imposed under this Act.

10 (f) The Department of Revenue shall deposit into the
11 Energy Transition Assistance Fund all moneys remitted to it in
12 accordance with this Section.

13 (g) The Department of Revenue may establish such rules as
14 it deems necessary to implement this Section.

15 (h) The Department of Commerce and Economic Opportunity
16 may establish such rules as it deems necessary to implement
17 this Section.

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

19 (220 ILCS 5/16-111.11 new)

20 Sec. 16-111.11. Supplier diversity reporting for
21 non-utilities.

22 (a) The following entities shall submit an annual supplier
23 diversity report to the Commission for a given year:

24 (1) entities that received a contract to provide more
25 than 10,000 renewable energy credits approved by the

1 Commission in a given year pursuant to subparagraph (iii)
2 of paragraph (5) of subsection (b) of Section 16-111.5;

3 (2) entities that received a contract to provide more
4 than 10,000 renewable energy credits approved by the
5 Commission in a given year pursuant to subsection (e) of
6 Section 16-111.5;

7 (3) alternative retail electric suppliers that have
8 yearly sales in the State of 1,000,000,000 kilowatt hours
9 or more, and alternative gas suppliers as defined in
10 Section 19-105 that have yearly sales in the State of
11 1,000,000 dekatherms or more;

12 (4) entities constructing or operating an HVDC
13 transmission line as defined in Section 1-10 of the
14 Illinois Power Agency Act or entities constructing or
15 operating transmission facilities under a certificate of
16 public convenience and necessity issued pursuant to
17 subsection (b-5) of Section 8-406;

18 (5) entities installing more than 100 energy
19 efficiency measures with a certificate approved by the
20 Commission pursuant to Section 16-128B; and

21 (6) other suppliers of electricity generated from any
22 resource, including, but not limited to, hydro, nuclear,
23 coal, natural gas, and any other supplier of energy within
24 this State.

25 (b) An annual report filed pursuant to this Section shall
26 be filed on an electronic form as designed by the Commission by

1 June 1, 2023 and every June 1 thereafter, in a searchable Adobe
2 PDF format, on all procurement goals and actual spending for
3 women-owned businesses, minority-owned businesses,
4 veteran-owned businesses, and small business enterprises in
5 the previous calendar year related to the performance of
6 obligations in the State of the contracts of licenses listed
7 in subsection (a). These goals shall be expressed as a
8 percentage of the total work performed by the entity
9 submitting the report. The actual spending for all women-owned
10 businesses, minority-owned businesses, veteran-owned
11 businesses, and small business enterprises shall also be
12 expressed as a percentage of the total work performed by the
13 entity submitting the report. Notwithstanding any provision of
14 law to the contrary, any entity with obligations related to
15 equity eligible actions pursuant to the Illinois Power Agency
16 Act may express such goals and spending in those terms.

17 Each participating entity in its annual report shall
18 include the following information related to the entity's
19 operations in the State related to the certificates or
20 activities listed in subsection (a):

21 (1) an explanation of the plan for the next year to
22 increase participation;

23 (2) an explanation of the plan to increase the goals;

24 (3) the areas of procurement each entity shall be
25 actively seeking more participation in the next year;

26 (4) an outline of the plan to alert and encourage

1 potential vendors in that area to seek business from the
2 entity;

3 (5) an explanation of the challenges faced in finding
4 quality vendors and offer any suggestions for what the
5 Commission could do to be helpful to identify those
6 vendors;

7 (6) a list of the certifications the entity
8 recognizes;

9 (7) the point of contact for any potential vendor who
10 wants to do business with the entity and explain the
11 process for a vendor to enroll with the company as a
12 minority-owned, women-owned, or veteran-owned company; and

13 (8) any particular success stories to encourage other
14 entities to emulate best practices.

15 (c) Each annual report shall include as much
16 State-specific data as possible. If the submitting entity does
17 not submit State-specific data, then the entity shall include
18 any national data it does have and explain why it could not
19 submit State-specific data and how it intends to do so in
20 future reports.

21 (d) Each annual report shall include the rules,
22 regulations, and definitions used for the procurement goals in
23 the entity's annual report.

24 (e) Each annual report filed or submitted under this
25 Section shall be submitted with the Commission. The Commission
26 shall not be required or authorized to compel production of

1 any report under this Section. The Commission shall hold an
2 annual workshop open to the public in 2024 and every year
3 thereafter on the state of supplier diversity to
4 collaboratively seek solutions to structural impediments to
5 achieving stated goals, including testimony from participating
6 entities as well as subject matter experts and advocates in a
7 non-antagonistic manner. The Commission shall invite all
8 entities submitting a report pursuant to this Section. The
9 Commission shall publish a database on its website of the
10 point of contact for each participating entity for supplier
11 diversity, along with a list of certifications each company
12 recognizes from the information submitted in each annual
13 report. The Commission shall publish each annual report on its
14 website and shall maintain each annual report for at least 5
15 years.

16 Section 1-15. The Environmental Protection Act is amended
17 by changing Section 9.15 as follows:

18 (415 ILCS 5/9.15)

19 Sec. 9.15. Greenhouse gases.

20 (a) An air pollution construction permit shall not be
21 required due to emissions of greenhouse gases if the
22 equipment, site, or source is not subject to regulation, as
23 defined by 40 CFR 52.21, as now or hereafter amended, for
24 greenhouse gases or is otherwise not addressed in this Section

1 or by the Board in regulations for greenhouse gases. These
2 exemptions do not relieve an owner or operator from the
3 obligation to comply with other applicable rules or
4 regulations.

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

13 (c) (Blank).

14 (d) (Blank).

15 (e) (Blank).

16 (f) As used in this Section:

17 "Carbon dioxide emission" means the plant annual CO₂ total
18 output emission as measured by the United States Environmental
19 Protection Agency in its Emissions & Generation Resource
20 Integrated Database (eGrid), or its successor.

21 "Carbon dioxide equivalent emissions" or "CO₂e" means the
22 sum total of the mass amount of emissions in tons per year,
23 calculated by multiplying the mass amount of each of the 6
24 greenhouse gases specified in Section 3.207, in tons per year,
25 by its associated global warming potential as set forth in 40
26 CFR 98, subpart A, table A-1 or its successor, and then adding

1 them all together.

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

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

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

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

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

24 (1) areas where residents have been historically
25 excluded from economic opportunities, including
26 opportunities in the energy sector, as defined as R3 areas

1 pursuant to Section 10-40 of the Cannabis Regulation and
2 Tax Act; and

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

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

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

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

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

24 (4) persons who were formerly incarcerated.

25 "Existing emissions" means:

26 (1) for CO₂e, the total average tons-per-year of CO₂e

1 emitted by the EGU or large GHG-emitting unit either in
2 the years 2018 through 2020 or, if the unit was not yet in
3 operation by January 1, 2018, in the first 3 full years of
4 that unit's operation; and

5 (2) for any copollutant, the total average
6 tons-per-year of that copollutant emitted by the EGU or
7 large GHG-emitting unit either in the years 2018 through
8 2020 or, if the unit was not yet in operation by January 1,
9 2018, in the first 3 full years of that unit's operation.

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

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

23 "NO_x emission rate" means the plant annual NO_x total output
24 emission rate as measured by the United States Environmental
25 Protection Agency in its Emissions & Generation Resource
26 Integrated Database (eGrid), or its successor, in the most

1 recent year for which data is available.

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

9 "SO₂ emission rate" means the "plant annual SO₂ total
10 output emission rate" as measured by the United States
11 Environmental Protection Agency in its Emissions & Generation
12 Resource Integrated Database (eGrid), or its successor, in the
13 most recent year for which data is available.

14 (g) All EGUs and large greenhouse gas-emitting units that
15 use coal or oil as a fuel and are not public GHG-emitting units
16 shall permanently reduce all CO₂e and copollutant emissions to
17 zero no later than January 1, 2030.

18 (h) All EGUs and large greenhouse gas-emitting units that
19 use coal as a fuel and are public GHG-emitting units shall
20 permanently reduce CO₂e emissions to zero no later than
21 December 31, 2045. Any source or plant with such units must
22 also reduce their CO₂e emissions by 45% from existing
23 emissions by no later than January 1, 2035. If the emissions
24 reduction requirement is not achieved by December 31, 2035,
25 the plant shall retire one or more units or otherwise reduce
26 its CO₂e emissions by 45% from existing emissions by June 30,

1 2038.

2 (i) All EGUs and large greenhouse gas-emitting units that
3 use gas as a fuel and are not public GHG-emitting units shall
4 permanently reduce all CO₂e and copollutant emissions to zero,
5 including through unit retirement or the use of 100% green
6 hydrogen or other similar technology that is commercially
7 proven to achieve zero carbon emissions, according to the
8 following:

9 (1) No later than January 1, 2030: all EGUs and large
10 greenhouse gas-emitting units that have a NO_x emissions
11 rate of greater than 0.12 lbs/MWh or a SO₂ emission rate of
12 greater than 0.006 lb/MWh, and are located in or within 3
13 miles of an environmental justice community designated as
14 of January 1, 2021 or an equity investment eligible
15 community.

16 (2) No later than January 1, 2040: all EGUs and large
17 greenhouse gas-emitting units that have a NO_x emission
18 rate of greater than 0.12 lbs/MWh or a SO₂ emission rate
19 greater than 0.006 lb/MWh, and are not located in or
20 within 3 miles of an environmental justice community
21 designated as of January 1, 2021 or an equity investment
22 eligible community. After January 1, 2035, each such EGU
23 and large greenhouse gas-emitting unit shall reduce its
24 CO₂e emissions by at least 50% from its existing emissions
25 for CO₂e, and shall be limited in operation to, on average,
26 6 hours or less per day, measured over a calendar year, and

1 shall not run for more than 24 consecutive hours except in
2 emergency conditions, as designated by a Regional
3 Transmission Organization or Independent System Operator.

4 (3) No later than January 1, 2035: all EGUs and large
5 greenhouse gas-emitting units that began operation prior
6 to the effective date of this amendatory Act of the 102nd
7 General Assembly and have a NO_x emission rate of less than
8 or equal to 0.12 lb/MWh and a SO₂ emission rate less than
9 or equal to 0.006 lb/MWh, and are located in or within 3
10 miles of an environmental justice community designated as
11 of January 1, 2021 or an equity investment eligible
12 community. Each such EGU and large greenhouse gas-emitting
13 unit shall reduce its CO₂e emissions by at least 50% from
14 its existing emissions for CO₂e no later than January 1,
15 2030.

16 (4) No later than January 1, 2040: All remaining EGUs
17 and large greenhouse gas-emitting units that have a heat
18 rate greater than or equal to 7000 BTU/kWh. Each such EGU
19 and Large greenhouse gas-emitting unit shall reduce its
20 CO₂e emissions by at least 50% from its existing emissions
21 for CO₂e no later than January 1, 2035.

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

24 (j) All EGUs and large greenhouse gas-emitting units that
25 use gas as a fuel and are public GHG-emitting units shall
26 permanently reduce all CO₂e and copollutant emissions to zero,

1 including through unit retirement or the use of 100% green
2 hydrogen or other similar technology that is commercially
3 proven to achieve zero carbon emissions by January 1, 2045.

4 (k) All EGUs and large greenhouse gas-emitting units that
5 utilize combined heat and power or cogeneration technology
6 shall permanently reduce all CO₂e and copollutant emissions to
7 zero, including through unit retirement or the use of 100%
8 green hydrogen or other similar technology that is
9 commercially proven to achieve zero carbon emissions by
10 January 1, 2045.

11 (k-5) No EGU or large greenhouse gas-emitting unit that
12 uses gas as a fuel and is not a public GHG-emitting unit may
13 emit, in any 12-month period, CO₂e or copollutants in excess of
14 that unit's existing emissions for those pollutants.

15 (l) Notwithstanding subsections (g) through (k-5), large
16 GHG-emitting units including EGUs may temporarily continue
17 emitting CO₂e and copollutants ~~greenhouse gases~~ after any
18 applicable deadline specified in any of subsections (g)
19 through (k-5) if it has been determined, as described in
20 paragraphs (1) and (2) of this subsection, that ongoing
21 operation of the EGU is necessary to maintain power grid
22 supply and reliability or ongoing operation of large
23 GHG-emitting unit that is not an EGU is necessary to serve as
24 an emergency backup to operations. Up to and including the
25 occurrence of an emission reduction deadline under subsection
26 (i), all EGUs and large GHG-emitting units must comply with

1 the following terms:

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

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

23 (3) any large GHG-emitting unit that is not a
24 participant in a regional transmission organization shall
25 be allowed to continue emitting CO₂e and copollutants
26 ~~greenhouse gases~~ after the zero-emission date specified in

1 subsection (g), (h), (i), (j), (k), or (k-5), as
2 applicable, in the capacity of an emergency backup unit if
3 approved by the Illinois Commerce Commission.

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

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

13 (o) Every 5 years beginning in 2025, the Environmental
14 Protection Agency, Illinois Power Agency, and Illinois
15 Commerce Commission shall jointly prepare, and release
16 publicly, a report to the General Assembly that examines the
17 State's current progress toward its renewable energy resource
18 development goals, the status of CO₂e and copollutant
19 emissions reductions, the current status and progress toward
20 developing and implementing green hydrogen technologies, the
21 current and projected status of electric resource adequacy and
22 reliability throughout the State for the period beginning 5
23 years ahead, and proposed solutions for any findings. The
24 Environmental Protection Agency, Illinois Power Agency, and
25 Illinois Commerce Commission shall consult PJM
26 Interconnection, LLC and Midcontinent Independent System

1 Operator, Inc., or their respective successor organizations
2 regarding forecasted resource adequacy and reliability needs,
3 anticipated new generation interconnection, new transmission
4 development or upgrades, and any announced large GHG-emitting
5 unit closure dates and include this information in the report.
6 The report shall be released publicly by no later than
7 December 15 of the year it is prepared. If the Environmental
8 Protection Agency, Illinois Power Agency, and Illinois
9 Commerce Commission jointly conclude in the report that the
10 data from the regional grid operators, the pace of renewable
11 energy development, the pace of development of energy storage
12 and demand response utilization, transmission capacity, and
13 the CO₂e and copollutant emissions reductions required by
14 subsection (i) or (k-5) reasonably demonstrate that a resource
15 adequacy shortfall will occur, including whether there will be
16 sufficient in-state capacity to meet the zonal requirements of
17 MISO Zone 4 or the PJM ComEd Zone, per the requirements of the
18 regional transmission organizations, or that the regional
19 transmission operators determine that a reliability violation
20 will occur during the time frame the study is evaluating, then
21 the Illinois Power Agency, in conjunction with the
22 Environmental Protection Agency shall develop a plan to reduce
23 or delay CO₂e and copollutant emissions reductions
24 requirements only to the extent and for the duration necessary
25 to meet the resource adequacy and reliability needs of the
26 State, including allowing any plants whose emission reduction

1 deadline has been identified in the plan as creating a
2 reliability concern to continue operating, including operating
3 with reduced emissions or as emergency backup where
4 appropriate. The plan shall also consider the use of renewable
5 energy, energy storage, demand response, transmission
6 development, or other strategies to resolve the identified
7 resource adequacy shortfall or reliability violation.

8 (1) In developing the plan, the Environmental
9 Protection Agency and the Illinois Power Agency shall hold
10 at least one workshop open to, and accessible at a time and
11 place convenient to, the public and shall consider any
12 comments made by stakeholders or the public. Upon
13 development of the plan, copies of the plan shall be
14 posted and made publicly available on the Environmental
15 Protection Agency's, the Illinois Power Agency's, and the
16 Illinois Commerce Commission's websites. All interested
17 parties shall have 60 days following the date of posting
18 to provide comment to the Environmental Protection Agency
19 and the Illinois Power Agency on the plan. All comments
20 submitted to the Environmental Protection Agency and the
21 Illinois Power Agency shall be encouraged to be specific,
22 supported by data or other detailed analyses, and, if
23 objecting to all or a portion of the plan, accompanied by
24 specific alternative wording or proposals. All comments
25 shall be posted on the Environmental Protection Agency's,
26 the Illinois Power Agency's, and the Illinois Commerce

1 Commission's websites. Within 30 days following the end of
2 the 60-day review period, the Environmental Protection
3 Agency and the Illinois Power Agency shall revise the plan
4 as necessary based on the comments received and file its
5 revised plan with the Illinois Commerce Commission for
6 approval.

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

19 (3) The Illinois Commerce Commission shall only
20 approve the plan if the Illinois Commerce Commission
21 determines that it will resolve the resource adequacy or
22 reliability deficiency identified in the reliability
23 mitigation plan at the least amount of CO₂e and copollutant
24 emissions, taking into consideration the emissions impacts
25 on environmental justice communities, and that it will
26 ensure adequate, reliable, affordable, efficient, and

1 environmentally sustainable electric service at the lowest
2 total cost over time, taking into account the impact of
3 increases in emissions.

4 (4) If the resource adequacy or reliability deficiency
5 identified in the reliability mitigation plan is resolved
6 or reduced, the Environmental Protection Agency and the
7 Illinois Power Agency may file an amended plan adjusting
8 the reduction or delay in CO₂e and copollutant emission
9 reduction requirements identified in the plan.

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

11 Article 99.

12 Section 99-99. Effective date. This Act takes effect upon
13 becoming law.".