

1 AN ACT concerning State government.

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

4 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8 (Section scheduled to be repealed on September 15, 2045)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
16 recruit, prescreen, and provide preapprenticeship skills
17 training, for which participants may attend free of charge and
18 receive a stipend, to create a qualified, diverse pipeline of
19 workers who are prepared for careers in the construction and
20 building trades and clean energy jobs opportunities therein.
21 Upon completion of the Illinois Climate Works
22 Preapprenticeship Program, the candidates will be connected to

1 and prepared to successfully complete an apprenticeship
2 program.

3 (b) Each Climate Works Hub that receives funding from the
4 Energy Transition Assistance Fund shall provide an annual
5 report to the Illinois Works Review Panel by April 1 of each
6 calendar year. The annual report shall include the following
7 information:

8 (1) a description of the Climate Works Hub's
9 recruitment, screening, and training efforts, including a
10 description of training related to construction and
11 building trades opportunities in clean energy jobs;

12 (2) the number of individuals who apply to,
13 participate in, and complete the Climate Works Hub's
14 program, broken down by race, gender, age, and veteran
15 status;

16 (3) the number of the individuals referenced in
17 paragraph (2) of this subsection who are initially
18 accepted and placed into apprenticeship programs in the
19 construction and building trades; and

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

25 (c) Subject to appropriation, the Department shall provide
26 funding to 3 Climate Works Hubs throughout the State,

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

17 (d) Each Climate Works Hub that receives funding from the
18 Energy Transition Assistance Fund shall: ~~The Climate Works~~
19 ~~Hubs shall recruit, prescreen, and provide preapprenticeship~~
20 ~~training to equity investment eligible persons. This training~~
21 ~~shall include information related to opportunities and~~
22 ~~certifications relevant to clean energy jobs in the~~
23 ~~construction and building trades.~~

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

26 (2) provide training information related to

1 opportunities and certifications relevant to clean energy
2 jobs in the construction and building trades; and

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

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

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

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

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

15 Section 1-10. The Public Utilities Act is amended by
16 changing Sections 5-117, 8-218, 16-107.6, 16-108.5, and
17 16-108.30 and by adding Section 16-111.11 as follows:

18 (220 ILCS 5/5-117)

19 Sec. 5-117. Supplier diversity goals.

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

23 (b) The Commission shall require all gas, electric, and
24 water utilities ~~companies~~ with at least 100,000 customers

1 under its authority, ~~as well as suppliers of wind energy,~~
2 ~~solar energy, hydroelectricity, nuclear energy, and any other~~
3 ~~supplier of energy within this State,~~ to submit an annual
4 report by April 15, 2015 and every April 15 thereafter, in a
5 searchable Adobe PDF format, on all procurement goals and
6 actual spending for female-owned, minority-owned,
7 veteran-owned, and small business enterprises in the previous
8 calendar year. These goals shall be expressed as a percentage
9 of the total work performed by the entity submitting the
10 report, and the actual spending for all female-owned,
11 minority-owned, veteran-owned, and small business enterprises
12 shall also be expressed as a percentage of the total work
13 performed by the entity submitting the report.

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

16 (1) an explanation of the plan for the next year to
17 increase participation;

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

19 (3) the areas of procurement each company shall be
20 actively seeking more participation in the next year;

21 (3.5) a buying plan for the specific goods and
22 services the company intends to buy in the next 6 to 18
23 months, that is either (i) organized by and reported at
24 the level of each applicable North American Industry
25 Classification System code, (ii) provided using a method,
26 system, or description similar to the North American

1 Industry Classification System, or (iii) provided using
2 the major categories of goods and related services
3 utilized in the company's procurement system, and
4 including any procurement codes used by the company, to
5 assist entrepreneurs and diverse companies to understand
6 upcoming opportunities to work with the company, however,
7 a utility shall not be required to include
8 commercially-sensitive data, nonpublic procurement
9 information, or other information that could compromise a
10 utility's ability to negotiate the most advantageous price
11 or terms;

12 (4) an outline of the plan to alert and encourage
13 potential vendors in that area to seek business from the
14 company;

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

19 (6) a list of the certifications the company
20 recognizes;

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

25 (8) any particular success stories to encourage other
26 companies to emulate best practices.

1 (d) Each annual report shall include as much
2 State-specific data as possible. If the submitting entity does
3 not submit State-specific data, then the company shall include
4 any national data it does have and explain why it could not
5 submit State-specific data and how it intends to do so in
6 future reports, if possible.

7 (e) Each annual report shall include the rules,
8 regulations, and definitions used for the procurement goals in
9 the company's annual report.

10 (f) The Commission and all participating entities shall
11 hold an annual workshop open to the public in 2015 and every
12 year thereafter on the state of supplier diversity to
13 collaboratively seek solutions to structural impediments to
14 achieving stated goals, including testimony from each
15 participating entity as well as subject matter experts and
16 advocates. The Commission shall publish a database on its
17 website of the point of contact for each participating entity
18 for supplier diversity, along with a list of certifications
19 each company recognizes from the information submitted in each
20 annual report. The Commission shall publish each annual report
21 on its website and shall maintain each annual report for at
22 least 5 years.

23 (Source: P.A. 102-558, eff. 8-20-21; 102-662, eff. 9-15-21;
24 102-673, eff. 11-30-21.)

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

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

13 (b) Pilot projects shall be sited in equity investment
14 eligible communities in or near the towns of Peoria and East
15 St. Louis and must result in economic benefits for the members
16 of the communities in which the project will be located. The
17 amount paid per pilot project with or without energy storage
18 facilities cannot exceed \$20,000,000. The electric utility's
19 costs of planning for, constructing, installing, controlling,
20 owning, managing, or operating the photovoltaic electricity
21 generation facilities and energy storage facilities may be
22 recovered, on a kilowatt hour basis, via an automatic
23 adjustment clause tariff applicable to all retail customers,
24 with the tariff to be approved by the Commission after
25 opportunity for review, and with an annual reconciliation
26 component; and for purposes of cost recovery, the photovoltaic

1 electricity production facilities may be treated as regulatory
2 assets, using the same ratemaking treatment in paragraph (1)
3 of subsection (h) of Section 16-107.6 of this Act, provided:
4 (1) the Commission shall have the authority to determine the
5 reasonableness of the costs of the facilities, and (2) any
6 monetary value of power and energy from the facilities shall
7 be credited against the delivery services revenue requirement.

8 (c) Any electric utility seeking to propose, plan for,
9 construct, install, control, own, manage, or operate a pilot
10 project pursuant to this Section must commit to using a
11 diverse and equitable workforce and a diverse set of
12 contractors, including minority-owned businesses,
13 disadvantaged businesses, trade unions, graduates of any
14 workforce training programs established by this amendatory Act
15 of the 102nd General Assembly, and small businesses. An
16 electric utility must comply with the equity commitment
17 requirements in subsection (c-10) of Section 1-75 of the
18 Illinois Power Agency Act. The electric utility must certify
19 that not less than the prevailing wage will be paid to
20 employees engaged in construction activities associated with
21 the pilot project. The electric utility must file a project
22 labor agreement, as defined in the Illinois Power Agency Act,
23 with the Commission prior to constructing, installing,
24 controlling, or owning a pilot project authorized by this
25 Section.

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

1 (220 ILCS 5/16-107.6)

2 Sec. 16-107.6. Distributed generation rebate.

3 (a) In this Section:

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

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

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

25 "Smart inverter" means a device that converts direct

1 current into alternating current and meets the IEEE 1547-2018
2 equipment standards. Until devices that meet the IEEE
3 1547-2018 standard are available, devices that meet the UL
4 1741 SA standard are acceptable.

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

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

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

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

23 (b) An electric utility that serves more than 200,000
24 customers in the State shall file a petition with the
25 Commission requesting approval of the utility's tariff to
26 provide a rebate to the owner or operator of distributed

1 generation, including third-party owned systems, that meets
2 the following criteria:

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

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

8 (3) is interconnected to electric distribution
9 facilities owned by the electric utility under rules
10 adopted by the Commission by means of the inverter or
11 smart inverter required by this Section, as applicable.

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

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

22 The tariff shall include a base rebate that compensates
23 distributed generation for the system-wide grid services
24 associated with distributed generation and, after the
25 proceeding described in subsection (e) of this Section, an
26 additional payment or payments for the additive services. The

1 tariff shall provide that the smart inverter associated with
2 the distributed generation shall provide autonomous response
3 to grid conditions through its default settings as approved by
4 the Commission. Default settings may not be changed after the
5 execution of the interconnection agreement except by mutual
6 agreement between the utility and the owner or operator of the
7 distributed generation. Nothing in this Section shall negate
8 or supersede Institute of Electrical and Electronics Engineers
9 equipment standards or other similar standards or
10 requirements. The tariff shall not limit the ability of the
11 smart inverter or other distributed energy resource to provide
12 wholesale market products such as regulation, demand response,
13 or other services, or limit the ability of the owner of the
14 smart inverter or the other distributed energy resource to
15 receive compensation for providing those wholesale market
16 products or services.

17 (b-5) Within 30 days after the effective date of this
18 amendatory Act of the 102nd General Assembly, each electric
19 public utility with 3,000,000 or more retail customers shall
20 file a tariff with the Commission that further compensates any
21 retail customer that installs or has installed photovoltaic
22 facilities paired with energy storage facilities on or
23 adjacent to its premises for the benefits the facilities
24 provide to the distribution grid. The tariff shall provide
25 that, in addition to the other rebates identified in this
26 Section, the electric utility shall rebate to such retail

1 customer (i) the previously incurred and future costs of
2 installing interconnection facilities and related
3 infrastructure to enable full participation in the PJM
4 Interconnection, LLC or its successor organization frequency
5 regulation market; and (ii) all wholesale demand charges
6 incurred after the effective date of this amendatory Act of
7 the 102nd General Assembly. The Commission shall approve, or
8 approve with modification, the tariff within 120 days after
9 the utility's filing.

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

15 (1) The owner or operator of distributed generation
16 that services customers not eligible for net metering
17 under subsection (d), (d-5), or (e) of Section 16-107.5 of
18 this Act may apply for a rebate as provided for in this
19 Section. Until the threshold date, the value of the rebate
20 shall be \$250 per kilowatt of nameplate generating
21 capacity, measured as nominal DC power output, of that
22 customer's distributed generation. To the extent the
23 distributed generation also has an associated energy
24 storage, then the energy storage system shall be
25 separately compensated with a base rebate of \$250 per
26 kilowatt-hour of nameplate capacity. Any distributed

1 generation device that is compensated for storage in this
2 subsection (1) before the threshold date shall participate
3 in one or more programs determined through the Multi-Year
4 Integrated Grid Planning process that are designed to meet
5 peak reduction and flexibility. After the threshold date,
6 the value of the base rebate and additional compensation
7 for any additive services shall be as determined by the
8 Commission in the proceeding described in subsection (e)
9 of this Section, provided that the value of the base
10 rebate for system-wide grid services shall not be lower
11 than \$250 per kilowatt of nameplate generating capacity of
12 distributed generation or community renewable generation
13 project.

14 (2) The owner or operator of distributed generation
15 that, before the threshold date, would have been eligible
16 for net metering under subsection (d), (d-5), or (e) of
17 Section 16-107.5 of this Act and that has not previously
18 received a distributed generation rebate, may apply for a
19 rebate as provided for in this Section. Until the
20 threshold date, the value of the base rebate shall be \$300
21 per kilowatt of nameplate generating capacity, measured as
22 nominal DC power output, of the distributed generation.
23 The owner or operator of distributed generation that,
24 before the threshold date, is eligible for net metering
25 under subsection (d), (d-5), or (e) of Section 16-107.5 of
26 this Act may apply for a base rebate for an energy storage

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

21 (3) Upon approval of a rebate application submitted
22 under this subsection (c), the retail customer shall no
23 longer be entitled to receive any delivery service credits
24 for the excess electricity generated by its facility and
25 shall be subject to the provisions of subsection (n) of
26 Section 16-107.5 of this Act unless the owner or operator

1 receives a rebate only for an energy storage device and
2 not for the distributed generation device.

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

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

19 (e) By no later than June 30, 2023, the Commission shall
20 open an independent, statewide investigation into the value
21 of, and compensation for, distributed energy resources. The
22 Commission shall conduct the investigation, but may arrange
23 for experts or consultants independent of the utilities and
24 selected by the Commission to assist with the investigation.
25 The cost of the investigation shall be shared by the utilities
26 filing tariffs under subsection (b) of this Section but may be

1 recovered as an expense through normal ratemaking procedures.

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

13 (2) The Commission's final order concluding this
14 investigation shall establish an annual process and
15 formula for the compensation of distributed generation and
16 energy storage systems, and an initial set of inputs for
17 that formula. The Commission's final order concluding this
18 investigation shall establish base rebates that compensate
19 distributed generation, community renewable generation
20 projects and energy storage systems for the system-wide
21 grid services that they provide. Those base rebate values
22 shall be consistent across the state, and shall not vary
23 by customer, customer class, customer location, or any
24 other variable. With respect to rebates for distributed
25 generation or community renewable generation projects,
26 that rebate shall not be lower than \$250 per kilowatt of

1 nameplate generating capacity of the distributed
2 generation or community renewable generation project. The
3 Commission's final order concluding this proceeding shall
4 also direct the utilities to update the formula, on an
5 annual basis, with inputs derived from their integrated
6 grid plans developed pursuant to Section 16-105.17. The
7 base rebate shall be updated annually based on the annual
8 updates to the formula inputs, but, with respect to
9 rebates for distributed generation or community renewable
10 generation projects, shall be no lower than \$250 per
11 kilowatt of nameplate generating capacity of the
12 distributed generation or community renewable generation
13 project.

14 (3) The Commission shall also determine, as a part of
15 its investigation under this subsection, whether
16 distributed energy resources can provide any additive
17 services. Those additive services may include services
18 that are provided through utility-controlled responses to
19 grid conditions. If the Commission determines that
20 distributed energy resources can provide additive grid
21 services, the Commission shall determine the terms and
22 conditions for the operation and compensation of those
23 services. That compensation shall be above and beyond the
24 base rebate that the distributed energy generation,
25 community renewable generation project and energy storage
26 system receives. Compensation for additive services may

1 vary by location, time, performance characteristics,
2 technology types, or other variables.

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

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

19 (6) The Commission shall determine additional
20 compensation for distributed energy resources that creates
21 savings and value on the distribution system by being
22 co-located or in close proximity to electric vehicle
23 charging infrastructure in use by medium-duty and
24 heavy-duty vehicles, primarily serving environmental
25 justice communities, as outlined in the utility integrated
26 grid planning process under Section 16-105.17 of this Act.

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

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

22 (g) The owner of the distributed generation or community
23 renewable generation project may apply for the rebate or
24 rebates approved under this Section at the time of execution
25 of an interconnection agreement with the distribution utility
26 and shall receive the value available at that time of

1 execution of the interconnection agreement, provided the
2 project reaches mechanical completion within 24 months after
3 execution of the interconnection agreement. If the project has
4 not reached mechanical completion within 24 months after
5 execution, the owner may reapply for the rebate or rebates
6 approved under this Section available at the time of
7 application and shall receive the value available at the time
8 of application. The utility shall issue the rebate no later
9 than 60 days after the project is energized. In the event the
10 application is incomplete or the utility is otherwise unable
11 to calculate the payment based on the information provided by
12 the owner, the utility shall issue the payment no later than 60
13 days after the application is complete or all requested
14 information is received.

15 (h) An electric utility shall recover from its retail
16 customers all of the costs of the rebates made under a tariff
17 or tariffs approved under subsection (d) of this Section,
18 including, but not limited to, the value of the rebates and all
19 costs incurred by the utility to comply with and implement
20 subsections (b) and (c) of this Section, but not including
21 costs incurred by the utility to comply with and implement
22 subsection (e) of this Section, consistent with the following
23 provisions:

24 (1) The utility shall defer the full amount of its
25 costs as a regulatory asset. The total costs deferred as a
26 regulatory asset shall be amortized over a 15-year period.

1 The unamortized balance shall be recognized as of December
2 31 for a given year. The utility shall also earn a return
3 on the total of the unamortized balance of the regulatory
4 assets, less any deferred taxes related to the unamortized
5 balance, at an annual rate equal to the utility's weighted
6 average cost of capital that includes, based on a year-end
7 capital structure, the utility's actual cost of debt for
8 the applicable calendar year and a cost of equity, which
9 shall be calculated as the sum of (i) the average for the
10 applicable calendar year of the monthly average yields of
11 30-year U.S. Treasury bonds published by the Board of
12 Governors of the Federal Reserve System in its weekly H.15
13 Statistical Release or successor publication; and (ii) 580
14 basis points, including a revenue conversion factor
15 calculated to recover or refund all additional income
16 taxes that may be payable or receivable as a result of that
17 return.

18 When an electric utility creates a regulatory asset
19 under the provisions of this paragraph (1) of subsection
20 (h), the costs are recovered over a period during which
21 customers also receive a benefit, which is in the public
22 interest. Accordingly, it is the intent of the General
23 Assembly that an electric utility that elects to create a
24 regulatory asset under the provisions of this paragraph
25 (1) shall recover all of the associated costs, including,
26 but not limited to, its cost of capital as set forth in

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

15 (2) The utility, at its election, may recover all of
16 the costs as part of a filing for a general increase in
17 rates under Article IX of this Act, as part of an annual
18 filing to update a performance-based formula rate under
19 subsection (d) of Section 16-108.5 of this Act, or through
20 an automatic adjustment clause tariff, provided that
21 nothing in this paragraph (2) permits the double recovery
22 of such costs from customers. If the utility elects to
23 recover the costs it incurs under subsections (b) and (c)
24 through an automatic adjustment clause tariff, the utility
25 may file its proposed tariff together with the tariff it
26 files under subsection (b) of this Section or at a later

1 time. The proposed tariff shall provide for an annual
2 reconciliation, less any deferred taxes related to the
3 reconciliation, with interest at an annual rate of return
4 equal to the utility's weighted average cost of capital as
5 calculated under paragraph (1) of this subsection (h),
6 including a revenue conversion factor calculated to
7 recover or refund all additional income taxes that may be
8 payable or receivable as a result of that return, of the
9 revenue requirement reflected in rates for each calendar
10 year, beginning with the calendar year in which the
11 utility files its automatic adjustment clause tariff under
12 this subsection (h), with what the revenue requirement
13 would 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 (i) An electric utility shall recover from its retail
24 customers, on a volumetric basis, all of the costs of the
25 rebates made under a tariff or tariffs placed into effect
26 under subsection (e) of this Section, including, but not

1 limited to, the value of the rebates and all costs incurred by
2 the utility to comply with and implement subsection (e) of
3 this Section, consistent with the following provisions:

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

22 The total costs deferred as a regulatory asset shall
23 be amortized over a 15-year period. The unamortized
24 balance shall be recognized as of December 31 for a given
25 year. The utility shall also earn a return on the total of
26 the unamortized balance of the regulatory assets, less any

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

15 (2) The utility may recover all of the costs through
16 an automatic adjustment clause tariff, on a volumetric
17 basis. The utility may file its proposed cost-recovery
18 tariff together with the tariff it files under subsection
19 (e) of this Section or at a later time. The proposed tariff
20 shall provide for an annual reconciliation, less any
21 deferred taxes related to the reconciliation, with
22 interest at an annual rate of return equal to the
23 utility's weighted average cost of capital as calculated
24 under paragraph (1) of this subsection (i), including a
25 revenue conversion factor calculated to recover or refund
26 all additional income taxes that may be payable or

1 receivable as a result of that return, of the revenue
2 requirement reflected in rates for each calendar year,
3 beginning with the calendar year in which the utility
4 files its automatic adjustment clause tariff under this
5 subsection (i), with what the revenue requirement would
6 have been had the actual cost information for the
7 applicable calendar year been available at the filing
8 date. The Commission shall review the proposed tariff and
9 may make changes to the tariff that are consistent with
10 this Section and with the Commission's authority under
11 Article IX of this Act, subject to notice and hearing.
12 Following notice and hearing, the Commission shall issue
13 an order approving, or approving with modification, such
14 tariff no later than 240 days after the utility files its
15 tariff.

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

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

22 (220 ILCS 5/16-108.5)

23 Sec. 16-108.5. Infrastructure investment and
24 modernization; regulatory reform.

25 (a) (Blank).

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

21 During the infrastructure investment program's peak
22 program year, a participating utility other than a combination
23 utility shall create 2,000 full-time equivalent jobs in
24 Illinois, and a participating utility that is a combination
25 utility shall create 450 full-time equivalent jobs in Illinois
26 related to the provision of electric service. These jobs shall

1 include direct jobs, contractor positions, and induced jobs,
2 but shall not include any portion of a job commitment, not
3 specifically contingent on an amendatory Act of the 97th
4 General Assembly becoming law, between a participating utility
5 and a labor union that existed on December 30, 2011 (the
6 effective date of Public Act 97-646) and that has not yet been
7 fulfilled. A portion of the full-time equivalent jobs created
8 by each participating utility shall include incremental
9 personnel hired subsequent to December 30, 2011 (the effective
10 date of Public Act 97-646). For purposes of this Section,
11 "peak program year" means the consecutive 12-month period with
12 the highest number of full-time equivalent jobs that occurs
13 between the beginning of investment year 2 and the end of
14 investment year 4.

15 A participating utility shall meet one of the following
16 commitments, as applicable:

17 (1) Beginning no later than 180 days after a
18 participating utility other than a combination utility
19 files a performance-based formula rate tariff pursuant to
20 subsection (c) of this Section, or, beginning no later
21 than January 1, 2012 if such utility files such
22 performance-based formula rate tariff within 14 days of
23 October 26, 2011 (the effective date of Public Act
24 97-616), the participating utility shall, except as
25 provided in subsection (b-5):

26 (A) over a 5-year period, invest an estimated

1 \$1,300,000,000 in electric system upgrades,
2 modernization projects, and training facilities,
3 including, but not limited to:

4 (i) distribution infrastructure improvements
5 totaling an estimated \$1,000,000,000, including
6 underground residential distribution cable
7 injection and replacement and mainline cable
8 system refurbishment and replacement projects;

9 (ii) training facility construction or upgrade
10 projects totaling an estimated \$10,000,000,
11 provided that, at a minimum, one such facility
12 shall be located in a municipality having a
13 population of more than 2 million residents and
14 one such facility shall be located in a
15 municipality having a population of more than
16 150,000 residents but fewer than 170,000
17 residents; any such new facility located in a
18 municipality having a population of more than 2
19 million residents must be designed for the purpose
20 of obtaining, and the owner of the facility shall
21 apply for, certification under the United States
22 Green Building Council's Leadership in Energy
23 Efficiency Design Green Building Rating System;

24 (iii) wood pole inspection, treatment, and
25 replacement programs;

26 (iv) an estimated \$200,000,000 for reducing

1 the susceptibility of certain circuits to
2 storm-related damage, including, but not limited
3 to, high winds, thunderstorms, and ice storms;
4 improvements may include, but are not limited to,
5 overhead to underground conversion and other
6 engineered outcomes for circuits; the
7 participating utility shall prioritize the
8 selection of circuits based on each circuit's
9 historical susceptibility to storm-related damage
10 and the ability to provide the greatest customer
11 benefit upon completion of the improvements; to be
12 eligible for improvement, the participating
13 utility's ability to maintain proper tree
14 clearances surrounding the overhead circuit must
15 not have been impeded by third parties; and

16 (B) over a 10-year period, invest an estimated
17 \$1,300,000,000 to upgrade and modernize its
18 transmission and distribution infrastructure and in
19 Smart Grid electric system upgrades, including, but
20 not limited to:

- 21 (i) additional smart meters;
22 (ii) distribution automation;
23 (iii) associated cyber secure data
24 communication network; and
25 (iv) substation micro-processor relay
26 upgrades.

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

10 (A) over a 10-year period, invest an estimated
11 \$265,000,000 in electric system upgrades,
12 modernization projects, and training facilities,
13 including, but not limited to:

14 (i) distribution infrastructure improvements
15 totaling an estimated \$245,000,000, which may
16 include bulk supply substations, transformers,
17 reconductoring, and rebuilding overhead
18 distribution and sub-transmission lines,
19 underground residential distribution cable
20 injection and replacement and mainline cable
21 system refurbishment and replacement projects;

22 (ii) training facility construction or upgrade
23 projects totaling an estimated \$1,000,000; any
24 such new facility must be designed for the purpose
25 of obtaining, and the owner of the facility shall
26 apply for, certification under the United States

1 Green Building Council's Leadership in Energy
2 Efficiency Design Green Building Rating System;
3 and

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

6 (B) over a 10-year period, invest an estimated
7 \$360,000,000 to upgrade and modernize its transmission
8 and distribution infrastructure and in Smart Grid
9 electric system upgrades, including, but not limited
10 to:

11 (i) additional smart meters;

12 (ii) distribution automation;

13 (iii) associated cyber secure data
14 communication network; and

15 (iv) substation micro-processor relay
16 upgrades.

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

20 The investments in the infrastructure investment program
21 described in this subsection (b) shall be incremental to the
22 participating utility's annual capital investment program, as
23 defined by, for purposes of this subsection (b), the
24 participating utility's average capital spend for calendar
25 years 2008, 2009, and 2010 as reported in the applicable
26 Federal Energy Regulatory Commission (FERC) Form 1; provided

1 that where one or more utilities have merged, the average
2 capital spend shall be determined using the aggregate of the
3 merged utilities' capital spend reported in FERC Form 1 for
4 the years 2008, 2009, and 2010. A participating utility may
5 add reasonable construction ramp-up and ramp-down time to the
6 investment periods specified in this subsection (b). For each
7 such investment period, the ramp-up and ramp-down time shall
8 not exceed a total of 6 months.

9 Within 60 days after filing a tariff under subsection (c)
10 of this Section, a participating utility shall submit to the
11 Commission its plan, including scope, schedule, and staffing,
12 for satisfying its infrastructure investment program
13 commitments pursuant to this subsection (b). The submitted
14 plan shall include a schedule and staffing plan for the next
15 calendar year. The plan shall also include a plan for the
16 creation, operation, and administration of a Smart Grid test
17 bed as described in subsection (c) of Section 16-108.8. The
18 plan need not allocate the work equally over the respective
19 periods, but should allocate material increments throughout
20 such periods commensurate with the work to be undertaken. No
21 later than April 1 of each subsequent year, the utility shall
22 submit to the Commission a report that includes any updates to
23 the plan, a schedule for the next calendar year, the
24 expenditures made for the prior calendar year and
25 cumulatively, and the number of full-time equivalent jobs
26 created for the prior calendar year and cumulatively. If the

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

19 With respect to the participating utility's peak job
20 commitment, if, after considering the utility's corrective
21 action plan and compliance thereunder, the Commission enters
22 an order finding, after notice and hearing, that a
23 participating utility did not satisfy its peak job commitment
24 described in this subsection (b) for reasons that are
25 reasonably within its control, then the Commission shall also
26 determine, after consideration of the evidence, including, but

1 not limited to, evidence submitted by the Department of
2 Commerce and Economic Opportunity and the utility, the
3 deficiency in the number of full-time equivalent jobs during
4 the peak program year due to such failure. The Commission
5 shall notify the Department of any proceeding that is
6 initiated pursuant to this paragraph. For each full-time
7 equivalent job deficiency during the peak program year that
8 the Commission finds as set forth in this paragraph, the
9 participating utility shall, within 30 days after the entry of
10 the Commission's order, pay \$6,000 to a fund for training
11 grants administered under Section 605-800 of the Department of
12 Commerce and Economic Opportunity Law, which shall not be a
13 recoverable expense.

14 With respect to the participating utility's investment
15 amount commitments, if, after considering the utility's
16 corrective action plan and compliance thereunder, the
17 Commission enters an order finding, after notice and hearing,
18 that a participating utility is not satisfying its investment
19 amount commitments described in this subsection (b), then the
20 utility shall no longer be eligible to annually update the
21 performance-based formula rate tariff pursuant to subsection
22 (d) of this Section. In such event, the then current rates
23 shall remain in effect until such time as new rates are set
24 pursuant to Article IX of this Act, subject to retroactive
25 adjustment, with interest, to reconcile rates charged with
26 actual costs.

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

10 In meeting the obligations of this subsection (b), to the
11 extent feasible and consistent with State and federal law, the
12 investments under the infrastructure investment program should
13 provide employment opportunities for all segments of the
14 population and workforce, including minority-owned and
15 female-owned business enterprises, and shall not, consistent
16 with State and federal law, discriminate based on race or
17 socioeconomic status.

18 (b-5) Nothing in this Section shall prohibit the
19 Commission from investigating the prudence and reasonableness
20 of the expenditures made under the infrastructure investment
21 program during the annual review required by subsection (d) of
22 this Section and shall, as part of such investigation,
23 determine whether the utility's actual costs under the program
24 are prudent and reasonable. The fact that a participating
25 utility invests more than the minimum amounts specified in
26 subsection (b) of this Section or its plan shall not imply

1 imprudence or unreasonableness.

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

13 In no event, absent General Assembly approval, shall the
14 capital investment costs incurred by a participating utility
15 other than a combination utility in satisfying its
16 infrastructure investment program commitments described in
17 subsection (b) of this Section exceed \$3,000,000,000 or, for a
18 participating utility that is a combination utility,
19 \$720,000,000. If the participating utility's updated cost
20 estimates for satisfying its infrastructure investment program
21 commitments described in subsection (b) of this Section exceed
22 the limitation imposed by this subsection (b-5), then it shall
23 submit a report to the Commission that identifies the
24 increased costs and explains the reason or reasons for the
25 increased costs no later than the year in which the utility
26 estimates it will exceed the limitation. The Commission shall

1 review the report and shall, within 90 days after the
2 participating utility files the report, report to the General
3 Assembly its findings regarding the participating utility's
4 report. If the General Assembly does not amend the limitation
5 imposed by this subsection (b-5), then the utility may modify
6 its plan so as not to exceed the limitation imposed by this
7 subsection (b-5) and may propose corresponding changes to the
8 metrics established pursuant to subparagraphs (5) through (8)
9 of subsection (f) of this Section, and the Commission may
10 modify the metrics and incremental savings goals established
11 pursuant to subsection (f) of this Section accordingly.

12 (b-10) All participating utilities shall make
13 contributions for an energy low-income and support program in
14 accordance with this subsection. Beginning no later than 180
15 days after a participating utility files a performance-based
16 formula rate tariff pursuant to subsection (c) of this
17 Section, or beginning no later than January 1, 2012 if such
18 utility files such performance-based formula rate tariff
19 within 14 days of December 30, 2011 (the effective date of
20 Public Act 97-646), and without obtaining any approvals from
21 the Commission or any other agency other than as set forth in
22 this Section, regardless of whether any such approval would
23 otherwise be required, a participating utility other than a
24 combination utility shall pay \$10,000,000 per year for 5 years
25 and a participating utility that is a combination utility
26 shall pay \$1,000,000 per year for 10 years to the energy

1 low-income and support program, which is intended to fund
2 customer assistance programs with the primary purpose being
3 avoidance of imminent disconnection. Such programs may
4 include:

5 (1) a residential hardship program that may partner
6 with community-based organizations, including senior
7 citizen organizations, and provides grants to low-income
8 residential customers, including low-income senior
9 citizens, who demonstrate a hardship;

10 (2) a program that provides grants and other bill
11 payment concessions to veterans with disabilities who
12 demonstrate a hardship and members of the armed services
13 or reserve forces of the United States or members of the
14 Illinois National Guard who are on active duty pursuant to
15 an executive order of the President of the United States,
16 an act of the Congress of the United States, or an order of
17 the Governor and who demonstrate a hardship;

18 (3) a budget assistance program that provides tools
19 and education to low-income senior citizens to assist them
20 with obtaining information regarding energy usage and
21 effective means of managing energy costs;

22 (4) a non-residential special hardship program that
23 provides grants to non-residential customers such as small
24 businesses and non-profit organizations that demonstrate a
25 hardship, including those providing services to senior
26 citizen and low-income customers; and

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

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

10 Programs that use funds that are provided by a
11 participating utility to reduce utility bills may be
12 implemented through tariffs that are filed with and reviewed
13 by the Commission. If a utility elects to file tariffs with the
14 Commission to implement all or a portion of the programs,
15 those tariffs shall, regardless of the date actually filed, be
16 deemed accepted and approved, and shall become effective on
17 December 30, 2011 (the effective date of Public Act 97-646).
18 The participating utilities whose customers benefit from the
19 funds that are disbursed as contemplated in this Section shall
20 file annual reports documenting the disbursement of those
21 funds with the Commission. The Commission has the authority to
22 audit disbursement of the funds to ensure they were disbursed
23 consistently with this Section.

24 If the Commission finds that a participating utility is no
25 longer eligible to update the performance-based formula rate
26 tariff pursuant to subsection (d) of this Section, or the

1 performance-based formula rate is otherwise terminated, then
2 the participating utility's voluntary commitments and
3 obligations under this subsection (b-10) shall immediately
4 terminate.

5 (c) A participating utility may elect to recover its
6 delivery services costs through a performance-based formula
7 rate approved by the Commission, which shall specify the cost
8 components that form the basis of the rate charged to
9 customers with sufficient specificity to operate in a
10 standardized manner and be updated annually with transparent
11 information that reflects the utility's actual costs to be
12 recovered during the applicable rate year, which is the period
13 beginning with the first billing day of January and extending
14 through the last billing day of the following December. In the
15 event the utility recovers a portion of its costs through
16 automatic adjustment clause tariffs on October 26, 2011 (the
17 effective date of Public Act 97-616), the utility may elect to
18 continue to recover these costs through such tariffs, but then
19 these costs shall not be recovered through the
20 performance-based formula rate. In the event the participating
21 utility, prior to December 30, 2011 (the effective date of
22 Public Act 97-646), filed electric delivery services tariffs
23 with the Commission pursuant to Section 9-201 of this Act that
24 are related to the recovery of its electric delivery services
25 costs that are still pending on December 30, 2011 (the
26 effective date of Public Act 97-646), the participating

1 utility shall, at the time it files its performance-based
2 formula rate tariff with the Commission, also file a notice of
3 withdrawal with the Commission to withdraw the electric
4 delivery services tariffs previously filed pursuant to Section
5 9-201 of this Act. Upon receipt of such notice, the Commission
6 shall dismiss with prejudice any docket that had been
7 initiated to investigate the electric delivery services
8 tariffs filed pursuant to Section 9-201 of this Act, and such
9 tariffs and the record related thereto shall not be the
10 subject of any further hearing, investigation, or proceeding
11 of any kind related to rates for electric delivery services.

12 The performance-based formula rate shall be implemented
13 through a tariff filed with the Commission consistent with the
14 provisions of this subsection (c) that shall be applicable to
15 all delivery services customers. The Commission shall initiate
16 and conduct an investigation of the tariff in a manner
17 consistent with the provisions of this subsection (c) and the
18 provisions of Article IX of this Act to the extent they do not
19 conflict with this subsection (c). Except in the case where
20 the Commission finds, after notice and hearing, that a
21 participating utility is not satisfying its investment amount
22 commitments under subsection (b) of this Section, the
23 performance-based formula rate shall remain in effect at the
24 discretion of the utility. The performance-based formula rate
25 approved by the Commission shall do the following:

26 (1) Provide for the recovery of the utility's actual

1 costs of delivery services that are prudently incurred and
2 reasonable in amount consistent with Commission practice
3 and law. The sole fact that a cost differs from that
4 incurred in a prior calendar year or that an investment is
5 different from that made in a prior calendar year shall
6 not imply the imprudence or unreasonableness of that cost
7 or investment.

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

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

23 (A) the average for the applicable calendar year
24 of the monthly average yields of 30-year U.S. Treasury
25 bonds published by the Board of Governors of the
26 Federal Reserve System in its weekly H.15 Statistical

1 Release or successor publication; and

2 (B) 580 basis points.

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

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

15 (A) recovery of incentive compensation expense
16 that is based on the achievement of operational
17 metrics, including metrics related to budget controls,
18 outage duration and frequency, safety, customer
19 service, efficiency and productivity, and
20 environmental compliance. Incentive compensation
21 expense that is based on net income or an affiliate's
22 earnings per share shall not be recoverable under the
23 performance-based formula rate;

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

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

8 (D) investment return at a rate equal to the
9 utility's weighted average cost of long-term debt, on
10 the pension assets as, and in the amount, reported in
11 Account 186 (or in such other Account or Accounts as
12 such asset may subsequently be recorded) of the
13 utility's most recently filed FERC Form 1, net of
14 deferred tax benefits;

15 (E) recovery of the expenses related to the
16 Commission proceeding under this subsection (c) to
17 approve this performance-based formula rate and
18 initial rates or to subsequent proceedings related to
19 the formula, provided that the recovery shall be
20 amortized over a 3-year period; recovery of expenses
21 related to the annual Commission proceedings under
22 subsection (d) of this Section to review the inputs to
23 the performance-based formula rate shall be expensed
24 and recovered through the performance-based formula
25 rate;

26 (F) amortization over a 5-year period of the full

1 amount of each charge or credit that exceeds
2 \$3,700,000 for a participating utility that is a
3 combination utility or \$10,000,000 for a participating
4 utility that serves more than 3 million retail
5 customers in the applicable calendar year and that
6 relates to a workforce reduction program's severance
7 costs, changes in accounting rules, changes in law,
8 compliance with any Commission-initiated audit, or a
9 single storm or other similar expense, provided that
10 any unamortized balance shall be reflected in rate
11 base. For purposes of this subparagraph (F), changes
12 in law includes any enactment, repeal, or amendment in
13 a law, ordinance, rule, regulation, interpretation,
14 permit, license, consent, or order, including those
15 relating to taxes, accounting, or to environmental
16 matters, or in the interpretation or application
17 thereof by any governmental authority occurring after
18 October 26, 2011 (the effective date of Public Act
19 97-616);

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

22 (H) historical weather normalized billing
23 determinants; and

24 (I) allocation methods for common costs.

25 (5) Provide that if the participating utility's earned
26 rate of return on common equity related to the provision

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

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

21 (6) Provide for an annual reconciliation, as described
22 in subsection (d) of this Section, with interest, of the
23 revenue requirement reflected in rates for each calendar
24 year, beginning with the calendar year in which the
25 utility files its performance-based formula rate tariff
26 pursuant to subsection (c) of this Section, with what the

1 revenue requirement would have been had the actual cost
2 information for the applicable calendar year been
3 available at the filing date.

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

20 After the utility files its proposed performance-based
21 formula rate structure and protocols and initial rates, the
22 Commission shall initiate a docket to review the filing. The
23 Commission shall enter an order approving, or approving as
24 modified, the performance-based formula rate, including the
25 initial rates, as just and reasonable within 270 days after
26 the date on which the tariff was filed, or, if the tariff is

1 filed within 14 days after October 26, 2011 (the effective
2 date of Public Act 97-616), then by May 31, 2012. Such review
3 shall be based on the same evidentiary standards, including,
4 but not limited to, those concerning the prudence and
5 reasonableness of the costs incurred by the utility, the
6 Commission applies in a hearing to review a filing for a
7 general increase in rates under Article IX of this Act. The
8 initial rates shall take effect within 30 days after the
9 Commission's order approving the performance-based formula
10 rate tariff.

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

17 Subsequent changes to the performance-based formula rate
18 structure or protocols shall be made as set forth in Section
19 9-201 of this Act, but nothing in this subsection (c) is
20 intended to limit the Commission's authority under Article IX
21 and other provisions of this Act to initiate an investigation
22 of a participating utility's performance-based formula rate
23 tariff, provided that any such changes shall be consistent
24 with paragraphs (1) through (6) of this subsection (c). Any
25 change ordered by the Commission shall be made at the same time
26 new rates take effect following the Commission's next order

1 pursuant to subsection (d) of this Section, provided that the
2 new rates take effect no less than 30 days after the date on
3 which the Commission issues an order adopting the change.

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

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

20 (d) Subsequent to the Commission's issuance of an order
21 approving the utility's performance-based formula rate
22 structure and protocols, and initial rates under subsection
23 (c) of this Section, the utility shall file, on or before May 1
24 of each year, with the Chief Clerk of the Commission its
25 updated cost inputs to the performance-based formula rate for
26 the applicable rate year and the corresponding new charges.

1 Each such filing shall conform to the following requirements
2 and include the following information:

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

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

23 Notwithstanding anything that may be to the contrary,
24 the intent of the reconciliation is to ultimately
25 reconcile the revenue requirement reflected in rates for
26 each calendar year, beginning with the calendar year in

1 which the utility files its performance-based formula rate
2 tariff pursuant to subsection (c) of this Section, with
3 what the revenue requirement determined using a year-end
4 rate base for the applicable calendar year would have been
5 had the actual cost information for the applicable
6 calendar year been available at the filing date.

7 (2) The new charges shall take effect beginning on the
8 first billing day of the following January billing period
9 and remain in effect through the last billing day of the
10 next December billing period regardless of whether the
11 Commission enters upon a hearing pursuant to this
12 subsection (d).

13 (3) The filing shall include relevant and necessary
14 data and documentation for the applicable rate year that
15 is consistent with the Commission's rules applicable to a
16 filing for a general increase in rates or any rules
17 adopted by the Commission to implement this Section.
18 Normalization adjustments shall not be required.
19 Notwithstanding any other provision of this Section or Act
20 or any rule or other requirement adopted by the
21 Commission, a participating utility that is a combination
22 utility with more than one rate zone shall not be required
23 to file a separate set of such data and documentation for
24 each rate zone and may combine such data and documentation
25 into a single set of schedules.

26 Within 45 days after the utility files its annual update

1 of cost inputs to the performance-based formula rate, the
2 Commission shall have the authority, either upon complaint or
3 its own initiative, but with reasonable notice, to enter upon
4 a hearing concerning the prudence and reasonableness of the
5 costs incurred by the utility to be recovered during the
6 applicable rate year that are reflected in the inputs to the
7 performance-based formula rate derived from the utility's FERC
8 Form 1. During the course of the hearing, each objection shall
9 be stated with particularity and evidence provided in support
10 thereof, after which the utility shall have the opportunity to
11 rebut the evidence. Discovery shall be allowed consistent with
12 the Commission's Rules of Practice, which Rules shall be
13 enforced by the Commission or the assigned administrative law
14 judge. The Commission shall apply the same evidentiary
15 standards, including, but not limited to, those concerning the
16 prudence and reasonableness of the costs incurred by the
17 utility, in the hearing as it would apply in a hearing to
18 review a filing for a general increase in rates under Article
19 IX of this Act. The Commission shall not, however, have the
20 authority in a proceeding under this subsection (d) to
21 consider or order any changes to the structure or protocols of
22 the performance-based formula rate approved pursuant to
23 subsection (c) of this Section. In a proceeding under this
24 subsection (d), the Commission shall enter its order no later
25 than the earlier of 240 days after the utility's filing of its
26 annual update of cost inputs to the performance-based formula

1 rate or December 31. The Commission's determinations of the
2 prudence and reasonableness of the costs incurred for the
3 applicable calendar year shall be final upon entry of the
4 Commission's order and shall not be subject to reopening,
5 reexamination, or collateral attack in any other Commission
6 proceeding, case, docket, order, rule or regulation, provided,
7 however, that nothing in this subsection (d) shall prohibit a
8 party from petitioning the Commission to rehear or appeal to
9 the courts the order pursuant to the provisions of this Act.

10 In the event the Commission does not, either upon
11 complaint or its own initiative, enter upon a hearing within
12 45 days after the utility files the annual update of cost
13 inputs to its performance-based formula rate, then the costs
14 incurred for the applicable calendar year shall be deemed
15 prudent and reasonable, and the filed charges shall not be
16 subject to reopening, reexamination, or collateral attack in
17 any other proceeding, case, docket, order, rule, or
18 regulation.

19 A participating utility's first filing of the updated cost
20 inputs, and any Commission investigation of such inputs
21 pursuant to this subsection (d) shall proceed notwithstanding
22 the fact that the Commission's investigation under subsection
23 (c) of this Section is still pending and notwithstanding any
24 other law, order, rule, or Commission practice to the
25 contrary.

26 (e) Nothing in subsections (c) or (d) of this Section

1 shall prohibit the Commission from investigating, or a
2 participating utility from filing, revenue-neutral tariff
3 changes related to rate design of a performance-based formula
4 rate that has been placed into effect for the utility.
5 Following approval of a participating utility's
6 performance-based formula rate tariff pursuant to subsection
7 (c) of this Section, the utility shall make a filing with the
8 Commission within one year after the effective date of the
9 performance-based formula rate tariff that proposes changes to
10 the tariff to incorporate the findings of any final rate
11 design orders of the Commission applicable to the
12 participating utility and entered subsequent to the
13 Commission's approval of the tariff. The Commission shall,
14 after notice and hearing, enter its order approving, or
15 approving with modification, the proposed changes to the
16 performance-based formula rate tariff within 240 days after
17 the utility's filing. Following such approval, the utility
18 shall make a filing with the Commission during each subsequent
19 3-year period that either proposes revenue-neutral tariff
20 changes or re-files the existing tariffs without change, which
21 shall present the Commission with an opportunity to suspend
22 the tariffs and consider revenue-neutral tariff changes
23 related to rate design.

24 (f) Within 30 days after the filing of a tariff pursuant to
25 subsection (c) of this Section, each participating utility
26 shall develop and file with the Commission multi-year metrics

1 designed to achieve, ratably (i.e., in equal segments) over a
2 10-year period, improvement over baseline performance values
3 as follows:

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

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

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

18 (3.5) For a participating utility other than a
19 combination utility, 20% improvement in the System Average
20 Interruption Frequency Index for its Northeastern Region,
21 using a baseline of the average of the data from 2001
22 through 2010. For purposes of this paragraph (3.5),
23 Northeastern Region shall have the meaning set forth in
24 the participating utility's most recent report filed
25 pursuant to Section 16-125 of this Act.

26 (4) Seventy-five percent improvement in the total

1 number of customers who exceed the service reliability
2 targets as set forth in subparagraphs (A) through (C) of
3 paragraph (4) of subsection (b) of 83 Ill. Admin. Code
4 Part 411.140 as of May 1, 2011, using 2010 as the baseline
5 year.

6 (5) Reduction in issuance of estimated electric bills:
7 90% improvement for a participating utility other than a
8 combination utility, and 56% improvement for a
9 participating utility that is a combination utility, using
10 a baseline of the average number of estimated bills for
11 the years 2008 through 2010.

12 (6) Consumption on inactive meters: 90% improvement
13 for a participating utility other than a combination
14 utility, and 56% improvement for a participating utility
15 that is a combination utility, using a baseline of the
16 average unbilled kilowatthours for the years 2009 and
17 2010.

18 (7) Unaccounted for energy: 50% improvement for a
19 participating utility other than a combination utility
20 using a baseline of the non-technical line loss
21 unaccounted for energy kilowatthours for the year 2009.

22 (8) Uncollectible expense: reduce uncollectible
23 expense by at least \$30,000,000 for a participating
24 utility other than a combination utility and by at least
25 \$3,500,000 for a participating utility that is a
26 combination utility, using a baseline of the average

1 uncollectible expense for the years 2008 through 2010.

2 (9) Opportunities for minority-owned and female-owned
3 business enterprises: design a performance metric
4 regarding the creation of opportunities for minority-owned
5 and female-owned business enterprises consistent with
6 State and federal law using a base performance value of
7 the percentage of the participating utility's capital
8 expenditures that were paid to minority-owned and
9 female-owned business enterprises in 2010.

10 The definitions set forth in 83 Ill. Admin. Code Part
11 411.20 as of May 1, 2011 shall be used for purposes of
12 calculating performance under paragraphs (1) through (3.5) of
13 this subsection (f), provided, however, that the participating
14 utility may exclude up to 9 extreme weather event days from
15 such calculation for each year, and provided further that the
16 participating utility shall exclude 9 extreme weather event
17 days when calculating each year of the baseline period to the
18 extent that there are 9 such days in a given year of the
19 baseline period. For purposes of this Section, an extreme
20 weather event day is a 24-hour calendar day (beginning at
21 12:00 a.m. and ending at 11:59 p.m.) during which any weather
22 event (e.g., storm, tornado) caused interruptions for 10,000
23 or more of the participating utility's customers for 3 hours
24 or more. If there are more than 9 extreme weather event days in
25 a year, then the utility may choose no more than 9 extreme
26 weather event days to exclude, provided that the same extreme

1 weather event days are excluded from each of the calculations
2 performed under paragraphs (1) through (3.5) of this
3 subsection (f).

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

20 The metrics and performance goals set forth in
21 subparagraphs (5) through (8) of this subsection (f) are based
22 on the assumptions that the participating utility may fully
23 implement the technology described in subsection (b) of this
24 Section, including utilizing the full functionality of such
25 technology and that there is no requirement for personal
26 on-site notification. If the utility is unable to meet the

1 metrics and performance goals set forth in subparagraphs (5)
2 through (8) of this subsection (f) for such reasons, and the
3 Commission so finds after notice and hearing, then the utility
4 shall be excused from compliance, but only to the limited
5 extent achievement of the affected metrics and performance
6 goals was hindered by the less than full implementation.

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

15 (1) With respect to each of the incremental annual
16 performance goals established pursuant to paragraph (1) of
17 subsection (f) of this Section,

18 (A) for each year that a participating utility
19 other than a combination utility does not achieve the
20 annual goal, the participating utility's return on
21 equity shall be reduced as follows: during years 1
22 through 3, by 5 basis points; during years 4 through 6,
23 by 6 basis points; and during years 7 through 10, by 7
24 basis points; and

25 (B) for each year that a participating utility
26 that is 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 10 basis points; during years 4 through
4 6, by 12 basis points; and during years 7 through 10,
5 by 14 basis points.

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

14 (3) With respect to each of the incremental annual
15 performance goals established pursuant to paragraphs (3)
16 and (3.5) of subsection (f) of this Section, for each year
17 that a participating utility other than a combination
18 utility does not achieve both such goals, the
19 participating utility's return on equity shall be reduced
20 as follows: during years 1 through 3, by 5 basis points;
21 during years 4 through 6, by 6 basis points; and during
22 years 7 through 10, by 7 basis points.

23 (4) With respect to each of the incremental annual
24 performance goals established pursuant to paragraph (4) of
25 subsection (f) of this Section, for each year that the
26 participating utility does not achieve each such goal, the

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

5 (5) With respect to each of the incremental annual
6 performance goals established pursuant to subparagraph (5)
7 of subsection (f) of this Section, for each year that the
8 participating utility does not achieve at least 95% of
9 each such goal, the participating utility's return on
10 equity shall be reduced by 5 basis points for each such
11 unachieved goal.

12 (6) With respect to each of the incremental annual
13 performance goals established pursuant to paragraphs (6),
14 (7), and (8) of subsection (f) of this Section, as
15 applicable, which together measure non-operational
16 customer savings and benefits relating to the
17 implementation of the Advanced Metering Infrastructure
18 Deployment Plan, as defined in Section 16-108.6 of this
19 Act, the performance under each such goal shall be
20 calculated in terms of the percentage of the goal
21 achieved. The percentage of goal achieved for each of the
22 goals shall be aggregated, and an average percentage value
23 calculated, for each year of the 10-year period. If the
24 utility does not achieve an average percentage value in a
25 given year of at least 95%, the participating utility's
26 return on equity shall be reduced by 5 basis points.

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

13 The Commission shall, after notice and hearing, enter an
14 order within 120 days after the metrics are filed approving,
15 or approving with modification, a participating utility's
16 tariff or mechanism to satisfy the metrics set forth in
17 subsection (f) of this Section. On June 1 of each subsequent
18 year, each participating utility shall file a report with the
19 Commission that includes, among other things, a description of
20 how the participating utility performed under each metric and
21 an identification of any extraordinary events that adversely
22 impacted the utility's performance. Whenever a participating
23 utility does not satisfy the metrics required pursuant to
24 subsection (f) of this Section, the Commission shall, after
25 notice and hearing, enter an order approving financial
26 penalties in accordance with this subsection (f-5). The

1 Commission-approved financial penalties shall be applied
2 beginning with the next rate year. Nothing in this Section
3 shall authorize the Commission to reduce or otherwise obviate
4 the imposition of financial penalties for failing to achieve
5 one or more of the metrics established pursuant to
6 subparagraph (1) through (4) of subsection (f) of this
7 Section.

8 (g) On or before July 31, 2014, each participating utility
9 shall file a report with the Commission that sets forth the
10 average annual increase in the average amount paid per
11 kilowatthour for residential eligible retail customers,
12 exclusive of the effects of energy efficiency programs,
13 comparing the 12-month period ending May 31, 2012; the
14 12-month period ending May 31, 2013; and the 12-month period
15 ending May 31, 2014. For a participating utility that is a
16 combination utility with more than one rate zone, the weighted
17 average aggregate increase shall be provided. The report shall
18 be filed together with a statement from an independent auditor
19 attesting to the accuracy of the report. The cost of the
20 independent auditor shall be borne by the participating
21 utility and shall not be a recoverable expense. "The average
22 amount paid per kilowatthour" shall be based on the
23 participating utility's tariffed rates actually in effect and
24 shall not be calculated using any hypothetical rate or
25 adjustments to actual charges (other than as specified for
26 energy efficiency) as an input.

1 In the event that the average annual increase exceeds 2.5%
2 as calculated pursuant to this subsection (g), then Sections
3 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of this Act, other
4 than this subsection, shall be inoperative as they relate to
5 the utility and its service area as of the date of the report
6 due to be submitted pursuant to this subsection and the
7 utility shall no longer be eligible to annually update the
8 performance-based formula rate tariff pursuant to subsection
9 (d) of this Section. In such event, the then current rates
10 shall remain in effect until such time as new rates are set
11 pursuant to Article IX of this Act, subject to retroactive
12 adjustment, with interest, to reconcile rates charged with
13 actual costs, and the participating utility's voluntary
14 commitments and obligations under subsection (b) of this
15 Section shall immediately terminate, except for the utility's
16 obligation to pay an amount already owed to the fund for
17 training grants pursuant to a Commission order issued under
18 subsection (b) of this Section.

19 In the event that the average annual increase is 2.5% or
20 less as calculated pursuant to this subsection (g), then the
21 performance-based formula rate shall remain in effect as set
22 forth in this Section.

23 For purposes of this Section, the amount per kilowatthour
24 means the total amount paid for electric service expressed on
25 a per kilowatthour basis, and the total amount paid for
26 electric service includes without limitation amounts paid for

1 supply, transmission, distribution, surcharges, and add-on
2 taxes exclusive of any increases in taxes or new taxes imposed
3 after October 26, 2011 (the effective date of Public Act
4 97-616). For purposes of this Section, "eligible retail
5 customers" shall have the meaning set forth in Section
6 16-111.5 of this Act.

7 The fact that this Section becomes inoperative as set
8 forth in this subsection shall not be construed to mean that
9 the Commission may reexamine or otherwise reopen prudence or
10 reasonableness determinations already made.

11 (h) By December 31, 2017, the Commission shall prepare and
12 file with the General Assembly a report on the infrastructure
13 program and the performance-based formula rate. The report
14 shall include the change in the average amount per
15 kilowatthour paid by residential customers between June 1,
16 2011 and May 31, 2017. If the change in the total average rate
17 paid exceeds 2.5% compounded annually, the Commission shall
18 include in the report an analysis that shows the portion of the
19 change due to the delivery services component and the portion
20 of the change due to the supply component of the rate. The
21 report shall include separate sections for each participating
22 utility.

23 Sections 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of
24 this Act, other than this subsection (h) and subsection (i) of
25 this Section, are inoperative after December 31, 2022 for
26 every participating utility, after which time a participating

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. At such time, the then current rates shall
4 remain in effect until such time as new rates are set pursuant
5 to Article IX of this Act, subject to retroactive adjustment,
6 with interest, to reconcile rates charged with actual costs.

7 The fact that this Section becomes inoperative as set
8 forth in this subsection shall not be construed to mean that
9 the Commission may reexamine or otherwise reopen prudence or
10 reasonableness determinations already made.

11 (i) While a participating utility may use, develop, and
12 maintain broadband systems and the delivery of broadband
13 services, voice-over-internet-protocol services,
14 telecommunications services, and cable and video programming
15 services for use in providing delivery services and Smart Grid
16 functionality or application to its retail customers,
17 including, but not limited to, the installation,
18 implementation and maintenance of Smart Grid electric system
19 upgrades as defined in Section 16-108.6 of this Act, a
20 participating utility is prohibited from providing ~~offering~~ to
21 its retail customers broadband services ~~or the delivery of~~
22 ~~broadband services~~, voice-over-internet-protocol services,
23 telecommunications services, or cable or video programming
24 services, unless they are part of a service directly related
25 to delivery services or Smart Grid functionality or
26 applications as defined in Section 16-108.6 of this Act, and

1 from recovering the costs of such offerings from retail
2 customers. The prohibition set forth in this subsection (i) is
3 inoperative after December 31, 2027 for every participating
4 utility.

5 (j) Nothing in this Section is intended to legislatively
6 overturn the opinion issued in Commonwealth Edison Co. v. Ill.
7 Commerce Comm'n, Nos. 2-08-0959, 2-08-1037, 2-08-1137,
8 1-08-3008, 1-08-3030, 1-08-3054, 1-08-3313 cons. (Ill. App.
9 Ct. 2d Dist. Sept. 30, 2010). Public Act 97-616 shall not be
10 construed as creating a contract between the General Assembly
11 and the participating utility, and shall not establish a
12 property right in the participating utility.

13 (k) The changes made in subsections (c) and (d) of this
14 Section by Public Act 98-15 are intended to be a restatement
15 and clarification of existing law, and intended to give
16 binding effect to the provisions of House Resolution 1157
17 adopted by the House of Representatives of the 97th General
18 Assembly and Senate Resolution 821 adopted by the Senate of
19 the 97th General Assembly that are reflected in paragraph (3)
20 of this subsection. In addition, Public Act 98-15 preempts and
21 supersedes any final Commission orders entered in Docket Nos.
22 11-0721, 12-0001, 12-0293, and 12-0321 to the extent
23 inconsistent with the amendatory language added to subsections
24 (c) and (d).

25 (1) No earlier than 5 business days after May 22, 2013
26 (the effective date of Public Act 98-15), each

1 participating utility shall file any tariff changes
2 necessary to implement the amendatory language set forth
3 in subsections (c) and (d) of this Section by Public Act
4 98-15 and a revised revenue requirement under the
5 participating utility's performance-based formula rate.
6 The Commission shall enter a final order approving such
7 tariff changes and revised revenue requirement within 21
8 days after the participating utility's filing.

9 (2) Notwithstanding anything that may be to the
10 contrary, a participating utility may file a tariff to
11 retroactively recover its previously unrecovered actual
12 costs of delivery service that are no longer subject to
13 recovery through a reconciliation adjustment under
14 subsection (d) of this Section. This retroactive recovery
15 shall include any derivative adjustments resulting from
16 the changes to subsections (c) and (d) of this Section by
17 Public Act 98-15. Such tariff shall allow the utility to
18 assess, on current customer bills over a period of 12
19 monthly billing periods, a charge or credit related to
20 those unrecovered costs with interest at the utility's
21 weighted average cost of capital during the period in
22 which those costs were unrecovered. A participating
23 utility may file a tariff that implements a retroactive
24 charge or credit as described in this paragraph for
25 amounts not otherwise included in the tariff filing
26 provided for in paragraph (1) of this subsection (k). The

1 Commission shall enter a final order approving such tariff
2 within 21 days after the participating utility's filing.

3 (3) The tariff changes described in paragraphs (1) and
4 (2) of this subsection (k) shall relate only to, and be
5 consistent with, the following provisions of Public Act
6 98-15: paragraph (2) of subsection (c) regarding year-end
7 capital structure, subparagraph (D) of paragraph (4) of
8 subsection (c) regarding pension assets, and subsection
9 (d) regarding the reconciliation components related to
10 year-end rate base and interest calculated at a rate equal
11 to the utility's weighted average cost of capital.

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

18 (1) Each participating utility shall be deemed to have
19 been in full compliance with all requirements of subsection
20 (b) of this Section, subsection (c) of this Section, Section
21 16-108.6 of this Act, and all Commission orders entered
22 pursuant to Sections 16-108.5 and 16-108.6 of this Act, up to
23 and including May 22, 2013 (the effective date of Public Act
24 98-15). The Commission shall not undertake any investigation
25 of such compliance and no penalty shall be assessed or adverse
26 action taken against a participating utility for noncompliance

1 with Commission orders associated with subsection (b) of this
2 Section, subsection (c) of this Section, and Section 16-108.6
3 of this Act prior to such date. Each participating utility
4 other than a combination utility shall be permitted, without
5 penalty, a period of 12 months after such effective date to
6 take actions required to ensure its infrastructure investment
7 program is in compliance with subsection (b) of this Section
8 and with Section 16-108.6 of this Act. Provided further, the
9 following subparagraphs shall apply to a participating utility
10 other than a combination utility:

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

19 (B) if the Commission has entered an order pursuant to
20 subsection (e) of Section 16-108.6 of this Act prior to
21 May 22, 2013 (the effective date of Public Act 98-15) that
22 does not accelerate the commencement of the meter
23 deployment schedule approved in the final Commission order
24 on rehearing entered in Docket No. 12-0298, then the
25 utility shall file with the Commission, within 45 days
26 after such effective date, a plan for accelerating the

1 commencement of the utility's meter deployment schedule
2 approved in the final Commission order on rehearing
3 entered in Docket No. 12-0298; the Commission shall reopen
4 the proceeding in which it entered its order pursuant to
5 subsection (e) of Section 16-108.6 of this Act and shall,
6 after notice and hearing, enter an amendatory order that
7 approves or approves as modified such accelerated plan
8 within 90 days after the utility's filing; or

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

20 Any schedule for meter deployment approved by the
21 Commission pursuant to this subsection (1) shall take into
22 consideration procurement times for meters and other equipment
23 and operational issues. Nothing in Public Act 98-15 shall
24 shorten or extend the end dates for the 5-year or 10-year
25 periods set forth in subsection (b) of this Section or Section
26 16-108.6 of this Act. Nothing in this subsection is intended

1 to address whether a participating utility has, or has not,
2 satisfied any or all of the metrics and performance goals
3 established pursuant to subsection (f) of this Section.

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

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

8 (220 ILCS 5/16-108.30)

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

10 (a) The Energy Transition Assistance Fund is hereby
11 created as a special fund in the State Treasury. The Energy
12 Transition Assistance Fund is authorized to receive moneys
13 collected pursuant to this Section. Subject to appropriation,
14 the Department of Commerce and Economic Opportunity shall use
15 moneys from the Energy Transition Assistance Fund consistent
16 with the purposes of this Act.

17 (b) An electric utility serving more than 500,000
18 customers in the State shall assess an energy transition
19 assistance charge on all its retail customers for the Energy
20 Transition Assistance Fund. The utility's total charge shall
21 be set based upon the value determined by the Department of
22 Commerce and Economic Opportunity pursuant to subsection (d)
23 or (e), as applicable, of Section 605-1075 of the Department
24 of Commerce and Economic Opportunity Law of the Civil
25 Administrative Code of Illinois. For each utility, the charge

1 shall be recovered through a single, uniform cents per
2 kilowatt-hour charge applicable to all retail customers. For
3 each utility, the charge shall not exceed 1.3% of the amount
4 paid per kilowatthour by eligible retail ~~these~~ customers
5 during the year ending May 31, 2009.

6 (c) Within 75 days of the effective date of this
7 amendatory Act of the 102nd General Assembly, each electric
8 utility serving more than 500,000 customers in the State shall
9 file with the Illinois Commerce Commission tariffs
10 incorporating the energy transition assistance charge in other
11 charges stated in such tariffs, which energy transition
12 assistance charges shall become effective no later than the
13 beginning of the first billing cycle that begins on or after
14 January 1, 2022. Each electric utility serving more than
15 500,000 customers in the State shall, prior to the beginning
16 of each calendar year starting with calendar year 2023, file
17 with the Illinois Commerce Commission tariff revisions to
18 incorporate annual revisions to the energy transition
19 assistance charge as prescribed by the Department of Commerce
20 and Economic Opportunity pursuant to Section 605-1075 of the
21 Department of Commerce and Economic Opportunity Law of the
22 Civil Administrative Code of Illinois so that such revision
23 becomes effective no later than the beginning of the first
24 billing cycle in each respective year.

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

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

13 If any payment provided for in this subsection exceeds the
14 electric utility's liabilities under this Act, as shown on an
15 original return, the Department may authorize the electric
16 utility to credit such excess payment against liability
17 subsequently to be remitted to the Department under this Act,
18 in accordance with reasonable rules adopted by the Department.

19 All the provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e,
20 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13
21 of the Retailers' Occupation Tax Act that are not inconsistent
22 with this Act apply, as far as practicable, to the charge
23 imposed by this Act to the same extent as if those provisions
24 were included in this Act. References in the incorporated
25 Sections of the Retailers' Occupation Tax Act to retailers, to
26 sellers, or to persons engaged in the business of selling

1 tangible personal property mean persons required to remit the
2 charge imposed under this Act.

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

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

8 (h) The Department of Commerce and Economic Opportunity
9 may establish such rules as it deems necessary to implement
10 this Section.

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

12 (220 ILCS 5/16-111.11 new)

13 Sec. 16-111.11. Supplier diversity reporting for
14 non-utilities.

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

17 (1) entities that received a contract to provide more
18 than 10,000 renewable energy credits approved by the
19 Commission in a given year pursuant to subparagraph (iii)
20 of paragraph (5) of subsection (b) of Section 16-111.5;

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

25 (3) alternative retail electric suppliers that have

1 yearly sales in the State of 1,000,000,000 kilowatt hours
2 or more, and alternative gas suppliers as defined in
3 Section 19-105 that have yearly sales in the State of
4 1,000,000 dekatherms or more;

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

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

14 (6) other suppliers of electricity generated from any
15 resource, including, but not limited to, hydro, nuclear,
16 coal, natural gas, and any other supplier of energy within
17 this State.

18 (b) An annual report filed pursuant to this Section shall
19 be filed on an electronic form as designed by the Commission by
20 June 1, 2023 and every June 1 thereafter, in a searchable Adobe
21 PDF format, on all procurement goals and actual spending for
22 women-owned businesses, minority-owned businesses,
23 veteran-owned businesses, and small business enterprises in
24 the previous calendar year related to the performance of
25 obligations in the State of the contracts of licenses listed
26 in subsection (a). These goals shall be expressed as a

1 percentage of the total work performed by the entity
2 submitting the report. The actual spending for all women-owned
3 businesses, minority-owned businesses, veteran-owned
4 businesses, and small business enterprises shall also be
5 expressed as a percentage of the total work performed by the
6 entity submitting the report. Notwithstanding any provision of
7 law to the contrary, any entity with obligations related to
8 equity eligible actions pursuant to the Illinois Power Agency
9 Act may express such goals and spending in those terms.

10 Each participating entity in its annual report shall
11 include the following information related to the entity's
12 operations in the State related to the certificates or
13 activities listed in subsection (a):

14 (1) an explanation of the plan for the next year to
15 increase participation;

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

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

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

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 entity

1 recognizes;

2 (7) the point of contact for any potential vendor who
3 wants to do business with the entity 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 entities to emulate best practices.

8 (c) 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 entity 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.

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

17 (e) Each annual report filed or submitted under this
18 Section shall be submitted with the Commission. The Commission
19 shall not be required or authorized to compel production of
20 any report under this Section. The Commission shall hold an
21 annual workshop open to the public in 2024 and every year
22 thereafter on the state of supplier diversity to
23 collaboratively seek solutions to structural impediments to
24 achieving stated goals, including testimony from participating
25 entities as well as subject matter experts and advocates in a
26 non-antagonistic manner. The Commission shall invite all

1 entities submitting a report pursuant to this Section. The
2 Commission shall publish a database on its website of the
3 point of contact for each participating entity for supplier
4 diversity, along with a list of certifications each company
5 recognizes from the information submitted in each annual
6 report. The Commission shall publish each annual report on its
7 website and shall maintain each annual report for at least 5
8 years.

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

11 (415 ILCS 5/9.15)

12 Sec. 9.15. Greenhouse gases.

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

22 (b) An air pollution operating permit shall not be
23 required due to emissions of greenhouse gases if the
24 equipment, site, or source is not subject to regulation, as

1 defined by Section 39.5 of this Act, for greenhouse gases or is
2 otherwise not addressed in this Section or by the Board in
3 regulations for greenhouse gases. These exemptions do not
4 relieve an owner or operator from the obligation to comply
5 with other applicable rules or regulations.

6 (c) (Blank).

7 (d) (Blank).

8 (e) (Blank).

9 (f) As used in this Section:

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

14 "Carbon dioxide equivalent emissions" or "CO₂e" means the
15 sum total of the mass amount of emissions in tons per year,
16 calculated by multiplying the mass amount of each of the 6
17 greenhouse gases specified in Section 3.207, in tons per year,
18 by its associated global warming potential as set forth in 40
19 CFR 98, subpart A, table A-1 or its successor, and then adding
20 them all together.

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

25 "Copollutants" refers to the 6 criteria pollutants that
26 have been identified by the United States Environmental

1 Protection Agency pursuant to the Clean Air Act.

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

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

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

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

22 (2) areas where residents have been historically
23 subject to disproportionate burdens of pollution,
24 including pollution from the energy sector, as established
25 by environmental justice communities as defined by the
26 Illinois Power Agency pursuant to the Illinois Power

1 Agency Act, excluding any racial or ethnic indicators.

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

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

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

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

17 (4) persons who were formerly incarcerated.

18 "Existing emissions" means:

19 (1) for CO₂e, the total average tons-per-year of CO₂e
20 emitted by the EGU or large GHG-emitting unit either in
21 the years 2018 through 2020 or, if the unit was not yet in
22 operation by January 1, 2018, in the first 3 full years of
23 that unit's operation; and

24 (2) for any copollutant, the total average
25 tons-per-year of that copollutant emitted by the EGU or
26 large GHG-emitting unit either in the years 2018 through

1 2020 or, if the unit was not yet in operation by January 1,
2 2018, in the first 3 full years of that unit's operation.

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

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

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

21 "Public greenhouse gas-emitting units" or "public
22 GHG-emitting unit" means large greenhouse gas-emitting units,
23 including EGUs, that are wholly owned, directly or indirectly,
24 by one or more municipalities, municipal corporations, joint
25 municipal electric power agencies, electric cooperatives, or
26 other governmental or nonprofit entities, whether organized

1 and created under the laws of Illinois or another state.

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

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

11 (h) All EGUs and large greenhouse gas-emitting units that
12 use coal as a fuel and are public GHG-emitting units shall
13 permanently reduce CO₂e emissions to zero no later than
14 December 31, 2045. Any source or plant with such units must
15 also reduce their CO₂e emissions by 45% from existing
16 emissions by no later than January 1, 2035. If the emissions
17 reduction requirement is not achieved by December 31, 2035,
18 the plant shall retire one or more units or otherwise reduce
19 its CO₂e emissions by 45% from existing emissions by June 30,
20 2038.

21 (i) All EGUs and large greenhouse gas-emitting units that
22 use gas as a fuel and are not public GHG-emitting units shall
23 permanently reduce all CO₂e and copollutant emissions to zero,
24 including through unit retirement or the use of 100% green
25 hydrogen or other similar technology that is commercially
26 proven to achieve zero carbon emissions, according to the

1 following:

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

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

23 (3) No later than January 1, 2035: all EGUs and large
24 greenhouse gas-emitting units that began operation prior
25 to the effective date of this amendatory Act of the 102nd
26 General Assembly and have a NO_x emission rate of less than

1 or equal to 0.12 lb/MWh and a SO₂ emission rate less than
2 or equal to 0.006 lb/MWh, and are located in or within 3
3 miles of an environmental justice community designated as
4 of January 1, 2021 or an equity investment eligible
5 community. Each such EGU and large greenhouse gas-emitting
6 unit shall reduce its CO₂e emissions by at least 50% from
7 its existing emissions for CO₂e no later than January 1,
8 2030.

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

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

17 (j) All EGUs and large greenhouse gas-emitting units that
18 use gas as a fuel and are public GHG-emitting units shall
19 permanently reduce all CO₂e and copollutant emissions to zero,
20 including through unit retirement or the use of 100% green
21 hydrogen or other similar technology that is commercially
22 proven to achieve zero carbon emissions by January 1, 2045.

23 (k) All EGUs and large greenhouse gas-emitting units that
24 utilize combined heat and power or cogeneration technology
25 shall permanently reduce all CO₂e and copollutant emissions to
26 zero, including through unit retirement or the use of 100%

1 green hydrogen or other similar technology that is
2 commercially proven to achieve zero carbon emissions by
3 January 1, 2045.

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

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

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

1 cease operating the large GHG-emitting unit;

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

16 (3) any large GHG-emitting unit that is not a
17 participant in a regional transmission organization shall
18 be allowed to continue emitting CO₂e and copollutants
19 ~~greenhouse gases~~ after the zero-emission date specified in
20 subsection (g), (h), (i), (j), (k), or (k-5), as
21 applicable, in the capacity of an emergency backup unit if
22 approved by the Illinois Commerce Commission.

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

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

6 (o) Every 5 years beginning in 2025, the Environmental
7 Protection Agency, Illinois Power Agency, and Illinois
8 Commerce Commission shall jointly prepare, and release
9 publicly, a report to the General Assembly that examines the
10 State's current progress toward its renewable energy resource
11 development goals, the status of CO₂e and copollutant
12 emissions reductions, the current status and progress toward
13 developing and implementing green hydrogen technologies, the
14 current and projected status of electric resource adequacy and
15 reliability throughout the State for the period beginning 5
16 years ahead, and proposed solutions for any findings. The
17 Environmental Protection Agency, Illinois Power Agency, and
18 Illinois Commerce Commission shall consult PJM
19 Interconnection, LLC and Midcontinent Independent System
20 Operator, Inc., or their respective successor organizations
21 regarding forecasted resource adequacy and reliability needs,
22 anticipated new generation interconnection, new transmission
23 development or upgrades, and any announced large GHG-emitting
24 unit closure dates and include this information in the report.
25 The report shall be released publicly by no later than
26 December 15 of the year it is prepared. If the Environmental

1 Protection Agency, Illinois Power Agency, and Illinois
2 Commerce Commission jointly conclude in the report that the
3 data from the regional grid operators, the pace of renewable
4 energy development, the pace of development of energy storage
5 and demand response utilization, transmission capacity, and
6 the CO₂e and copollutant emissions reductions required by
7 subsection (i) or (k-5) reasonably demonstrate that a resource
8 adequacy shortfall will occur, including whether there will be
9 sufficient in-state capacity to meet the zonal requirements of
10 MISO Zone 4 or the PJM ComEd Zone, per the requirements of the
11 regional transmission organizations, or that the regional
12 transmission operators determine that a reliability violation
13 will occur during the time frame the study is evaluating, then
14 the Illinois Power Agency, in conjunction with the
15 Environmental Protection Agency shall develop a plan to reduce
16 or delay CO₂e and copollutant emissions reductions
17 requirements only to the extent and for the duration necessary
18 to meet the resource adequacy and reliability needs of the
19 State, including allowing any plants whose emission reduction
20 deadline has been identified in the plan as creating a
21 reliability concern to continue operating, including operating
22 with reduced emissions or as emergency backup where
23 appropriate. The plan shall also consider the use of renewable
24 energy, energy storage, demand response, transmission
25 development, or other strategies to resolve the identified
26 resource adequacy shortfall or reliability violation.

1 (1) In developing the plan, the Environmental
2 Protection Agency and the Illinois Power Agency shall hold
3 at least one workshop open to, and accessible at a time and
4 place convenient to, the public and shall consider any
5 comments made by stakeholders or the public. Upon
6 development of the plan, copies of the plan shall be
7 posted and made publicly available on the Environmental
8 Protection Agency's, the Illinois Power Agency's, and the
9 Illinois Commerce Commission's websites. All interested
10 parties shall have 60 days following the date of posting
11 to provide comment to the Environmental Protection Agency
12 and the Illinois Power Agency on the plan. All comments
13 submitted to the Environmental Protection Agency and the
14 Illinois Power Agency shall be encouraged to be specific,
15 supported by data or other detailed analyses, and, if
16 objecting to all or a portion of the plan, accompanied by
17 specific alternative wording or proposals. All comments
18 shall be posted on the Environmental Protection Agency's,
19 the Illinois Power Agency's, and the Illinois Commerce
20 Commission's websites. Within 30 days following the end of
21 the 60-day review period, the Environmental Protection
22 Agency and the Illinois Power Agency shall revise the plan
23 as necessary based on the comments received and file its
24 revised plan with the Illinois Commerce Commission for
25 approval.

26 (2) Within 60 days after the filing of the revised

1 plan at the Illinois Commerce Commission, any person
2 objecting to the plan shall file an objection with the
3 Illinois Commerce Commission. Within 30 days after the
4 expiration of the comment period, the Illinois Commerce
5 Commission shall determine whether an evidentiary hearing
6 is necessary. The Illinois Commerce Commission shall also
7 host 3 public hearings within 90 days after the plan is
8 filed. Following the evidentiary and public hearings, the
9 Illinois Commerce Commission shall enter its order
10 approving or approving with modifications the reliability
11 mitigation plan within 180 days.

12 (3) The Illinois Commerce Commission shall only
13 approve the plan if the Illinois Commerce Commission
14 determines that it will resolve the resource adequacy or
15 reliability deficiency identified in the reliability
16 mitigation plan at the least amount of CO₂e and copollutant
17 emissions, taking into consideration the emissions impacts
18 on environmental justice communities, and that it will
19 ensure adequate, reliable, affordable, efficient, and
20 environmentally sustainable electric service at the lowest
21 total cost over time, taking into account the impact of
22 increases in emissions.

23 (4) If the resource adequacy or reliability deficiency
24 identified in the reliability mitigation plan is resolved
25 or reduced, the Environmental Protection Agency and the
26 Illinois Power Agency may file an amended plan adjusting

1 the reduction or delay in CO₂e and copollutant emission
2 reduction requirements identified in the plan.

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

4 Article 99.

5 Section 99-99. Effective date. This Act takes effect upon
6 becoming law.