



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB5359

Introduced 2/9/2024, by Rep. Jay Hoffman

#### SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-10  
20 ILCS 3855/1-75

Amends the Illinois Power Agency Act. Makes changes to "brownfield site photovoltaic project" definition. Deletes provision that requires the Agency to develop a method to optimize procurement of the renewable energy credits from proposed utility-scale projects that are located in communities eligible to receive grants pursuant to the Energy Community Reinvestment Act. Provides criteria for the Agency to use to rank the bids for evaluation and selection for the project. Provides that if a project meets one or more of the criteria the Agency shall apply the bid price adjustment two times in ranking and evaluating the bid submitted for the project. Outlines the intent of the General Assembly in enacting the provision. Effective immediately.

LRB103 37964 CES 68096 b

1 AN ACT concerning State government.

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

4 Section 5. The Illinois Power Agency Act is amended by  
5 changing Sections 1-10 and 1-75 as follows:

6 (20 ILCS 3855/1-10)

7 Sec. 1-10. Definitions.

8 "Agency" means the Illinois Power Agency.

9 "Agency loan agreement" means any agreement pursuant to  
10 which the Illinois Finance Authority agrees to loan the  
11 proceeds of revenue bonds issued with respect to a project to  
12 the Agency upon terms providing for loan repayment  
13 installments at least sufficient to pay when due all principal  
14 of, interest and premium, if any, on those revenue bonds, and  
15 providing for maintenance, insurance, and other matters in  
16 respect of the project.

17 "Authority" means the Illinois Finance Authority.

18 "Brownfield site photovoltaic project" means photovoltaics  
19 that are either:

20 (1) interconnected to an electric utility as defined  
21 in this Section, a municipal utility as defined in this  
22 Section, a public utility as defined in Section 3-105 of  
23 the Public Utilities Act, or an electric cooperative as

1 defined in Section 3-119 of the Public Utilities Act and  
2 at least 70% of the project area is located at a site that  
3 is regulated by any of the following entities under the  
4 following programs:

5 (A) the United States Environmental Protection  
6 Agency under the federal Comprehensive Environmental  
7 Response, Compensation, and Liability Act of 1980, as  
8 amended;

9 (B) the United States Environmental Protection  
10 Agency under the Corrective Action Program of the  
11 federal Resource Conservation and Recovery Act, as  
12 amended;

13 (C) the Illinois Environmental Protection Agency  
14 under the Illinois Site Remediation Program; except  
15 that if the project is to be constructed on a coal  
16 combustion residuals storage area, the project is not  
17 eligible unless the owner certifies, with its bid for  
18 a renewable energy credit contract, compliance with  
19 all applicable State and federal rules governing the  
20 closure of the storage area; or

21 (D) the Illinois Environmental Protection Agency  
22 under the Illinois Solid Waste Program; or

23 (2) have at least 70% of the project area located at  
24 the site of a coal mine that has permanently ceased coal  
25 production, permanently halted any re-mining operations,  
26 and is no longer accepting any coal combustion residues;

1 has both completed all clean-up and remediation  
2 obligations under the federal Surface Mining and  
3 Reclamation Act of 1977 and all applicable Illinois rules  
4 and any other clean-up, remediation, or ongoing monitoring  
5 to safeguard the health and well-being of the people of  
6 the State of Illinois, as well as demonstrated compliance  
7 with all applicable federal and State environmental rules  
8 and regulations, including, but not limited, to 35 Ill.  
9 Adm. Code Part 845 and any rules for historic fill of coal  
10 combustion residuals, including any rules finalized in  
11 Subdocket A of Illinois Pollution Control Board docket  
12 R2020-019.

13 "Clean coal facility" means an electric generating  
14 facility that uses primarily coal as a feedstock and that  
15 captures and sequesters carbon dioxide emissions at the  
16 following levels: at least 50% of the total carbon dioxide  
17 emissions that the facility would otherwise emit if, at the  
18 time construction commences, the facility is scheduled to  
19 commence operation before 2016, at least 70% of the total  
20 carbon dioxide emissions that the facility would otherwise  
21 emit if, at the time construction commences, the facility is  
22 scheduled to commence operation during 2016 or 2017, and at  
23 least 90% of the total carbon dioxide emissions that the  
24 facility would otherwise emit if, at the time construction  
25 commences, the facility is scheduled to commence operation  
26 after 2017. The power block of the clean coal facility shall

1 not exceed allowable emission rates for sulfur dioxide,  
2 nitrogen oxides, carbon monoxide, particulates and mercury for  
3 a natural gas-fired combined-cycle facility the same size as  
4 and in the same location as the clean coal facility at the time  
5 the clean coal facility obtains an approved air permit. All  
6 coal used by a clean coal facility shall have high volatile  
7 bituminous rank and greater than 1.7 pounds of sulfur per  
8 million Btu content, unless the clean coal facility does not  
9 use gasification technology and was operating as a  
10 conventional coal-fired electric generating facility on June  
11 1, 2009 (the effective date of Public Act 95-1027).

12 "Clean coal SNG brownfield facility" means a facility that  
13 (1) has commenced construction by July 1, 2015 on an urban  
14 brownfield site in a municipality with at least 1,000,000  
15 residents; (2) uses a gasification process to produce  
16 substitute natural gas; (3) uses coal as at least 50% of the  
17 total feedstock over the term of any sourcing agreement with a  
18 utility and the remainder of the feedstock may be either  
19 petroleum coke or coal, with all such coal having a high  
20 bituminous rank and greater than 1.7 pounds of sulfur per  
21 million Btu content unless the facility reasonably determines  
22 that it is necessary to use additional petroleum coke to  
23 deliver additional consumer savings, in which case the  
24 facility shall use coal for at least 35% of the total feedstock  
25 over the term of any sourcing agreement; and (4) captures and  
26 sequesters at least 85% of the total carbon dioxide emissions

1 that the facility would otherwise emit.

2 "Clean coal SNG facility" means a facility that uses a  
3 gasification process to produce substitute natural gas, that  
4 sequesters at least 90% of the total carbon dioxide emissions  
5 that the facility would otherwise emit, that uses at least 90%  
6 coal as a feedstock, with all such coal having a high  
7 bituminous rank and greater than 1.7 pounds of sulfur per  
8 million Btu content, and that has a valid and effective permit  
9 to construct emission sources and air pollution control  
10 equipment and approval with respect to the federal regulations  
11 for Prevention of Significant Deterioration of Air Quality  
12 (PSD) for the plant pursuant to the federal Clean Air Act;  
13 provided, however, a clean coal SNG brownfield facility shall  
14 not be a clean coal SNG facility.

15 "Clean energy" means energy generation that is 90% or  
16 greater free of carbon dioxide emissions.

17 "Commission" means the Illinois Commerce Commission.

18 "Community renewable generation project" means an electric  
19 generating facility that:

20 (1) is powered by wind, solar thermal energy,  
21 photovoltaic cells or panels, biodiesel, crops and  
22 untreated and unadulterated organic waste biomass, and  
23 hydropower that does not involve new construction of dams;

24 (2) is interconnected at the distribution system level  
25 of an electric utility as defined in this Section, a  
26 municipal utility as defined in this Section that owns or

1 operates electric distribution facilities, a public  
2 utility as defined in Section 3-105 of the Public  
3 Utilities Act, or an electric cooperative, as defined in  
4 Section 3-119 of the Public Utilities Act;

5 (3) credits the value of electricity generated by the  
6 facility to the subscribers of the facility; and

7 (4) is limited in nameplate capacity to less than or  
8 equal to 5,000 kilowatts.

9 "Costs incurred in connection with the development and  
10 construction of a facility" means:

11 (1) the cost of acquisition of all real property,  
12 fixtures, and improvements in connection therewith and  
13 equipment, personal property, and other property, rights,  
14 and easements acquired that are deemed necessary for the  
15 operation and maintenance of the facility;

16 (2) financing costs with respect to bonds, notes, and  
17 other evidences of indebtedness of the Agency;

18 (3) all origination, commitment, utilization,  
19 facility, placement, underwriting, syndication, credit  
20 enhancement, and rating agency fees;

21 (4) engineering, design, procurement, consulting,  
22 legal, accounting, title insurance, survey, appraisal,  
23 escrow, trustee, collateral agency, interest rate hedging,  
24 interest rate swap, capitalized interest, contingency, as  
25 required by lenders, and other financing costs, and other  
26 expenses for professional services; and

1           (5) the costs of plans, specifications, site study and  
2           investigation, installation, surveys, other Agency costs  
3           and estimates of costs, and other expenses necessary or  
4           incidental to determining the feasibility of any project,  
5           together with such other expenses as may be necessary or  
6           incidental to the financing, insuring, acquisition, and  
7           construction of a specific project and starting up,  
8           commissioning, and placing that project in operation.

9           "Delivery services" has the same definition as found in  
10          Section 16-102 of the Public Utilities Act.

11          "Delivery year" means the consecutive 12-month period  
12          beginning June 1 of a given year and ending May 31 of the  
13          following year.

14          "Department" means the Department of Commerce and Economic  
15          Opportunity.

16          "Director" means the Director of the Illinois Power  
17          Agency.

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

21          "Distributed renewable energy generation device" means a  
22          device that is:

23               (1) powered by wind, solar thermal energy,  
24               photovoltaic cells or panels, biodiesel, crops and  
25               untreated and unadulterated organic waste biomass, tree  
26               waste, and hydropower that does not involve new



1 construction of dams, waste heat to power systems, or  
2 qualified combined heat and power systems;

3 (2) interconnected at the distribution system level of  
4 either an electric utility as defined in this Section, a  
5 municipal utility as defined in this Section that owns or  
6 operates electric distribution facilities, or a rural  
7 electric cooperative as defined in Section 3-119 of the  
8 Public Utilities Act;

9 (3) located on the customer side of the customer's  
10 electric meter and is primarily used to offset that  
11 customer's electricity load; and

12 (4) (blank).

13 "Energy efficiency" means measures that reduce the amount  
14 of electricity or natural gas consumed in order to achieve a  
15 given end use. "Energy efficiency" includes voltage  
16 optimization measures that optimize the voltage at points on  
17 the electric distribution voltage system and thereby reduce  
18 electricity consumption by electric customers' end use  
19 devices. "Energy efficiency" also includes measures that  
20 reduce the total Btus of electricity, natural gas, and other  
21 fuels needed to meet the end use or uses.

22 "Electric utility" has the same definition as found in  
23 Section 16-102 of the Public Utilities Act.

24 "Equity investment eligible community" or "eligible  
25 community" are synonymous and mean the geographic areas  
26 throughout Illinois which would most benefit from equitable

1 investments by the State designed to combat discrimination.  
2 Specifically, the eligible communities shall be defined as the  
3 following areas:

4 (1) R3 Areas as established pursuant to Section 10-40  
5 of the Cannabis Regulation and Tax Act, where residents  
6 have historically been excluded from economic  
7 opportunities, including opportunities in the energy  
8 sector; and

9 (2) environmental justice communities, as defined by  
10 the Illinois Power Agency pursuant to the Illinois Power  
11 Agency Act, where residents have historically been subject  
12 to disproportionate burdens of pollution, including  
13 pollution from the energy sector.

14 "Equity eligible persons" or "eligible persons" means  
15 persons who would most benefit from equitable investments by  
16 the State designed to combat discrimination, specifically:

17 (1) persons who graduate from or are current or former  
18 participants in the Clean Jobs Workforce Network Program,  
19 the Clean Energy Contractor Incubator Program, the  
20 Illinois Climate Works Preapprenticeship Program,  
21 Returning Residents Clean Jobs Training Program, or the  
22 Clean Energy Primes Contractor Accelerator Program, and  
23 the solar training pipeline and multi-cultural jobs  
24 program created in paragraphs (a) (1) and (a) (3) of Section  
25 16-208.12 of the Public Utilities Act;

26 (2) persons who are graduates of or currently enrolled

1 in the foster care system;

2 (3) persons who were formerly incarcerated;

3 (4) persons whose primary residence is in an equity  
4 investment eligible community.

5 "Equity eligible contractor" means a business that is  
6 majority-owned by eligible persons, or a nonprofit or  
7 cooperative that is majority-governed by eligible persons, or  
8 is a natural person that is an eligible person offering  
9 personal services as an independent contractor.

10 "Facility" means an electric generating unit or a  
11 co-generating unit that produces electricity along with  
12 related equipment necessary to connect the facility to an  
13 electric transmission or distribution system.

14 "General contractor" means the entity or organization with  
15 main responsibility for the building of a construction project  
16 and who is the party signing the prime construction contract  
17 for the project.

18 "Governmental aggregator" means one or more units of local  
19 government that individually or collectively procure  
20 electricity to serve residential retail electrical loads  
21 located within its or their jurisdiction.

22 "High voltage direct current converter station" means the  
23 collection of equipment that converts direct current energy  
24 from a high voltage direct current transmission line into  
25 alternating current using Voltage Source Conversion technology  
26 and that is interconnected with transmission or distribution

1 assets located in Illinois.

2 "High voltage direct current renewable energy credit"  
3 means a renewable energy credit associated with a renewable  
4 energy resource where the renewable energy resource has  
5 entered into a contract to transmit the energy associated with  
6 such renewable energy credit over high voltage direct current  
7 transmission facilities.

8 "High voltage direct current transmission facilities"  
9 means the collection of installed equipment that converts  
10 alternating current energy in one location to direct current  
11 and transmits that direct current energy to a high voltage  
12 direct current converter station using Voltage Source  
13 Conversion technology. "High voltage direct current  
14 transmission facilities" includes the high voltage direct  
15 current converter station itself and associated high voltage  
16 direct current transmission lines. Notwithstanding the  
17 preceding, after September 15, 2021 (the effective date of  
18 Public Act 102-662), an otherwise qualifying collection of  
19 equipment does not qualify as high voltage direct current  
20 transmission facilities unless its developer entered into a  
21 project labor agreement, is capable of transmitting  
22 electricity at 525kv with an Illinois converter station  
23 located and interconnected in the region of the PJM  
24 Interconnection, LLC, and the system does not operate as a  
25 public utility, as that term is defined in Section 3-105 of the  
26 Public Utilities Act.

1 "Hydropower" means any method of electricity generation or  
2 storage that results from the flow of water, including  
3 impoundment facilities, diversion facilities, and pumped  
4 storage facilities.

5 "Index price" means the real-time energy settlement price  
6 at the applicable Illinois trading hub, such as PJM-NIHUB or  
7 MISO-IL, for a given settlement period.

8 "Indexed renewable energy credit" means a tradable credit  
9 that represents the environmental attributes of one megawatt  
10 hour of energy produced from a renewable energy resource, the  
11 price of which shall be calculated by subtracting the strike  
12 price offered by a new utility-scale wind project or a new  
13 utility-scale photovoltaic project from the index price in a  
14 given settlement period.

15 "Indexed renewable energy credit counterparty" has the  
16 same meaning as "public utility" as defined in Section 3-105  
17 of the Public Utilities Act.

18 "Local government" means a unit of local government as  
19 defined in Section 1 of Article VII of the Illinois  
20 Constitution.

21 "Modernized" or "retooled" means the construction, repair,  
22 maintenance, or significant expansion of turbines and existing  
23 hydropower dams.

24 "Municipality" means a city, village, or incorporated  
25 town.

26 "Municipal utility" means a public utility owned and

1 operated by any subdivision or municipal corporation of this  
2 State.

3 "Nameplate capacity" means the aggregate inverter  
4 nameplate capacity in kilowatts AC.

5 "Person" means any natural person, firm, partnership,  
6 corporation, either domestic or foreign, company, association,  
7 limited liability company, joint stock company, or association  
8 and includes any trustee, receiver, assignee, or personal  
9 representative thereof.

10 "Project" means the planning, bidding, and construction of  
11 a facility.

12 "Project labor agreement" means a pre-hire collective  
13 bargaining agreement that covers all terms and conditions of  
14 employment on a specific construction project and must include  
15 the following:

16 (1) provisions establishing the minimum hourly wage  
17 for each class of labor organization employee;

18 (2) provisions establishing the benefits and other  
19 compensation for each class of labor organization  
20 employee;

21 (3) provisions establishing that no strike or disputes  
22 will be engaged in by the labor organization employees;

23 (4) provisions establishing that no lockout or  
24 disputes will be engaged in by the general contractor  
25 building the project; and

26 (5) provisions for minorities and women, as defined

1 under the Business Enterprise for Minorities, Women, and  
2 Persons with Disabilities Act, setting forth goals for  
3 apprenticeship hours to be performed by minorities and  
4 women and setting forth goals for total hours to be  
5 performed by underrepresented minorities and women.

6 A labor organization and the general contractor building  
7 the project shall have the authority to include other terms  
8 and conditions as they deem necessary.

9 "Public utility" has the same definition as found in  
10 Section 3-105 of the Public Utilities Act.

11 "Qualified combined heat and power systems" means systems  
12 that, either simultaneously or sequentially, produce  
13 electricity and useful thermal energy from a single fuel  
14 source. Such systems are eligible for "renewable energy  
15 credits" in an amount equal to its total energy output where a  
16 renewable fuel is consumed or in an amount equal to the net  
17 reduction in nonrenewable fuel consumed on a total energy  
18 output basis.

19 "Real property" means any interest in land together with  
20 all structures, fixtures, and improvements thereon, including  
21 lands under water and riparian rights, any easements,  
22 covenants, licenses, leases, rights-of-way, uses, and other  
23 interests, together with any liens, judgments, mortgages, or  
24 other claims or security interests related to real property.

25 "Renewable energy credit" means a tradable credit that  
26 represents the environmental attributes of one megawatt hour

1 of energy produced from a renewable energy resource.

2 "Renewable energy resources" includes energy and its  
3 associated renewable energy credit or renewable energy credits  
4 from wind, solar thermal energy, photovoltaic cells and  
5 panels, biodiesel, anaerobic digestion, crops and untreated  
6 and unadulterated organic waste biomass, and hydropower that  
7 does not involve new construction of dams, waste heat to power  
8 systems, or qualified combined heat and power systems. For  
9 purposes of this Act, landfill gas produced in the State is  
10 considered a renewable energy resource. "Renewable energy  
11 resources" does not include the incineration or burning of  
12 tires, garbage, general household, institutional, and  
13 commercial waste, industrial lunchroom or office waste,  
14 landscape waste, railroad crossties, utility poles, or  
15 construction or demolition debris, other than untreated and  
16 unadulterated waste wood. "Renewable energy resources" also  
17 includes high voltage direct current renewable energy credits  
18 and the associated energy converted to alternating current by  
19 a high voltage direct current converter station to the extent  
20 that: (1) the generator of such renewable energy resource  
21 contracted with a third party to transmit the energy over the  
22 high voltage direct current transmission facilities, and (2)  
23 the third-party contracting for delivery of renewable energy  
24 resources over the high voltage direct current transmission  
25 facilities have ownership rights over the unretired associated  
26 high voltage direct current renewable energy credit.



1 "Retail customer" has the same definition as found in  
2 Section 16-102 of the Public Utilities Act.

3 "Revenue bond" means any bond, note, or other evidence of  
4 indebtedness issued by the Authority, the principal and  
5 interest of which is payable solely from revenues or income  
6 derived from any project or activity of the Agency.

7 "Sequester" means permanent storage of carbon dioxide by  
8 injecting it into a saline aquifer, a depleted gas reservoir,  
9 or an oil reservoir, directly or through an enhanced oil  
10 recovery process that may involve intermediate storage,  
11 regardless of whether these activities are conducted by a  
12 clean coal facility, a clean coal SNG facility, a clean coal  
13 SNG brownfield facility, or a party with which a clean coal  
14 facility, clean coal SNG facility, or clean coal SNG  
15 brownfield facility has contracted for such purposes.

16 "Service area" has the same definition as found in Section  
17 16-102 of the Public Utilities Act.

18 "Settlement period" means the period of time utilized by  
19 MISO and PJM and their successor organizations as the basis  
20 for settlement calculations in the real-time energy market.

21 "Sourcing agreement" means (i) in the case of an electric  
22 utility, an agreement between the owner of a clean coal  
23 facility and such electric utility, which agreement shall have  
24 terms and conditions meeting the requirements of paragraph (3)  
25 of subsection (d) of Section 1-75, (ii) in the case of an  
26 alternative retail electric supplier, an agreement between the

1 owner of a clean coal facility and such alternative retail  
2 electric supplier, which agreement shall have terms and  
3 conditions meeting the requirements of Section 16-115(d)(5) of  
4 the Public Utilities Act, and (iii) in case of a gas utility,  
5 an agreement between the owner of a clean coal SNG brownfield  
6 facility and the gas utility, which agreement shall have the  
7 terms and conditions meeting the requirements of subsection  
8 (h-1) of Section 9-220 of the Public Utilities Act.

9 "Strike price" means a contract price for energy and  
10 renewable energy credits from a new utility-scale wind project  
11 or a new utility-scale photovoltaic project.

12 "Subscriber" means a person who (i) takes delivery service  
13 from an electric utility, and (ii) has a subscription of no  
14 less than 200 watts to a community renewable generation  
15 project that is located in the electric utility's service  
16 area. No subscriber's subscriptions may total more than 40% of  
17 the nameplate capacity of an individual community renewable  
18 generation project. Entities that are affiliated by virtue of  
19 a common parent shall not represent multiple subscriptions  
20 that total more than 40% of the nameplate capacity of an  
21 individual community renewable generation project.

22 "Subscription" means an interest in a community renewable  
23 generation project expressed in kilowatts, which is sized  
24 primarily to offset part or all of the subscriber's  
25 electricity usage.

26 "Substitute natural gas" or "SNG" means a gas manufactured

1 by gasification of hydrocarbon feedstock, which is  
2 substantially interchangeable in use and distribution with  
3 conventional natural gas.

4 "Total resource cost test" or "TRC test" means a standard  
5 that is met if, for an investment in energy efficiency or  
6 demand-response measures, the benefit-cost ratio is greater  
7 than one. The benefit-cost ratio is the ratio of the net  
8 present value of the total benefits of the program to the net  
9 present value of the total costs as calculated over the  
10 lifetime of the measures. A total resource cost test compares  
11 the sum of avoided electric utility costs, representing the  
12 benefits that accrue to the system and the participant in the  
13 delivery of those efficiency measures and including avoided  
14 costs associated with reduced use of natural gas or other  
15 fuels, avoided costs associated with reduced water  
16 consumption, and avoided costs associated with reduced  
17 operation and maintenance costs, as well as other quantifiable  
18 societal benefits, to the sum of all incremental costs of  
19 end-use measures that are implemented due to the program  
20 (including both utility and participant contributions), plus  
21 costs to administer, deliver, and evaluate each demand-side  
22 program, to quantify the net savings obtained by substituting  
23 the demand-side program for supply resources. In calculating  
24 avoided costs of power and energy that an electric utility  
25 would otherwise have had to acquire, reasonable estimates  
26 shall be included of financial costs likely to be imposed by

1 future regulations and legislation on emissions of greenhouse  
2 gases. In discounting future societal costs and benefits for  
3 the purpose of calculating net present values, a societal  
4 discount rate based on actual, long-term Treasury bond yields  
5 should be used. Notwithstanding anything to the contrary, the  
6 TRC test shall not include or take into account a calculation  
7 of market price suppression effects or demand reduction  
8 induced price effects.

9 "Utility-scale solar project" means an electric generating  
10 facility that:

11 (1) generates electricity using photovoltaic cells;

12 and

13 (2) has a nameplate capacity that is greater than  
14 5,000 kilowatts.

15 "Utility-scale wind project" means an electric generating  
16 facility that:

17 (1) generates electricity using wind; and

18 (2) has a nameplate capacity that is greater than  
19 5,000 kilowatts.

20 "Waste Heat to Power Systems" means systems that capture  
21 and generate electricity from energy that would otherwise be  
22 lost to the atmosphere without the use of additional fuel.

23 "Zero emission credit" means a tradable credit that  
24 represents the environmental attributes of one megawatt hour  
25 of energy produced from a zero emission facility.

26 "Zero emission facility" means a facility that: (1) is

1 fueled by nuclear power; and (2) is interconnected with PJM  
2 Interconnection, LLC or the Midcontinent Independent System  
3 Operator, Inc., or their successors.

4 (Source: P.A. 102-662, eff. 9-15-21; 103-154, eff. 6-28-23;  
5 103-380, eff. 1-1-24.)

6 (20 ILCS 3855/1-75)

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

10 (a) The Planning and Procurement Bureau shall each year,  
11 beginning in 2008, develop procurement plans and conduct  
12 competitive procurement processes in accordance with the  
13 requirements of Section 16-111.5 of the Public Utilities Act  
14 for the eligible retail customers of electric utilities that  
15 on December 31, 2005 provided electric service to at least  
16 100,000 customers in Illinois. Beginning with the delivery  
17 year commencing on June 1, 2017, the Planning and Procurement  
18 Bureau shall develop plans and processes for the procurement  
19 of zero emission credits from zero emission facilities in  
20 accordance with the requirements of subsection (d-5) of this  
21 Section. Beginning on the effective date of this amendatory  
22 Act of the 102nd General Assembly, the Planning and  
23 Procurement Bureau shall develop plans and processes for the  
24 procurement of carbon mitigation credits from carbon-free  
25 energy resources in accordance with the requirements of

1 subsection (d-10) of this Section. The Planning and  
2 Procurement Bureau shall also develop procurement plans and  
3 conduct competitive procurement processes in accordance with  
4 the requirements of Section 16-111.5 of the Public Utilities  
5 Act for the eligible retail customers of small  
6 multi-jurisdictional electric utilities that (i) on December  
7 31, 2005 served less than 100,000 customers in Illinois and  
8 (ii) request a procurement plan for their Illinois  
9 jurisdictional load. This Section shall not apply to a small  
10 multi-jurisdictional utility until such time as a small  
11 multi-jurisdictional utility requests the Agency to prepare a  
12 procurement plan for their Illinois jurisdictional load. For  
13 the purposes of this Section, the term "eligible retail  
14 customers" has the same definition as found in Section  
15 16-111.5(a) of the Public Utilities Act.

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

25 In accordance with subsection (c-5) of this Section, the  
26 Planning and Procurement Bureau shall oversee the procurement

1 by electric utilities that served more than 300,000 retail  
2 customers in this State as of January 1, 2019 of renewable  
3 energy credits from new utility-scale solar projects to be  
4 installed, along with energy storage facilities, at or  
5 adjacent to the sites of electric generating facilities that,  
6 as of January 1, 2016, burned coal as their primary fuel  
7 source.

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

14 (A) direct previous experience assembling  
15 large-scale power supply plans or portfolios for  
16 end-use customers;

17 (B) an advanced degree in economics, mathematics,  
18 engineering, risk management, or a related area of  
19 study;

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

22 (D) expertise in wholesale electricity market  
23 rules, including those established by the Federal  
24 Energy Regulatory Commission and regional transmission  
25 organizations;

26 (E) expertise in credit protocols and familiarity

1 with contract protocols;

2 (F) adequate resources to perform and fulfill the  
3 required functions and responsibilities; and

4 (G) the absence of a conflict of interest and  
5 inappropriate bias for or against potential bidders or  
6 the affected electric utilities.

7 (2) The Agency shall each year, as needed, issue a  
8 request for qualifications for a procurement administrator  
9 to conduct the competitive procurement processes in  
10 accordance with Section 16-111.5 of the Public Utilities  
11 Act. In order to qualify an expert or expert consulting  
12 firm must have:

13 (A) direct previous experience administering a  
14 large-scale competitive procurement process;

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

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

19 (D) expertise in wholesale electricity market  
20 rules, including those established by the Federal  
21 Energy Regulatory Commission and regional transmission  
22 organizations;

23 (E) expertise in credit and contract protocols;

24 (F) adequate resources to perform and fulfill the  
25 required functions and responsibilities; and

26 (G) the absence of a conflict of interest and



1           inappropriate bias for or against potential bidders or  
2           the affected electric utilities.

3           (3) The Agency shall provide affected utilities and  
4           other interested parties with the lists of qualified  
5           experts or expert consulting firms identified through the  
6           request for qualifications processes that are under  
7           consideration to develop the procurement plans and to  
8           serve as the procurement administrator. The Agency shall  
9           also provide each qualified expert's or expert consulting  
10          firm's response to the request for qualifications. All  
11          information provided under this subparagraph shall also be  
12          provided to the Commission. The Agency may provide by rule  
13          for fees associated with supplying the information to  
14          utilities and other interested parties. These parties  
15          shall, within 5 business days, notify the Agency in  
16          writing if they object to any experts or expert consulting  
17          firms on the lists. Objections shall be based on:

- 18                   (A) failure to satisfy qualification criteria;  
19                   (B) identification of a conflict of interest; or  
20                   (C) evidence of inappropriate bias for or against  
21          potential bidders or the affected utilities.

22          The Agency shall remove experts or expert consulting  
23          firms from the lists within 10 days if there is a  
24          reasonable basis for an objection and provide the updated  
25          lists to the affected utilities and other interested  
26          parties. If the Agency fails to remove an expert or expert

1 consulting firm from a list, an objecting party may seek  
2 review by the Commission within 5 days thereafter by  
3 filing a petition, and the Commission shall render a  
4 ruling on the petition within 10 days. There is no right of  
5 appeal of the Commission's ruling.

6 (4) The Agency shall issue requests for proposals to  
7 the qualified experts or expert consulting firms to  
8 develop a procurement plan for the affected utilities and  
9 to serve as procurement administrator.

10 (5) The Agency shall select an expert or expert  
11 consulting firm to develop procurement plans based on the  
12 proposals submitted and shall award contracts of up to 5  
13 years to those selected.

14 (6) The Agency shall select an expert or expert  
15 consulting firm, with approval of the Commission, to serve  
16 as procurement administrator based on the proposals  
17 submitted. If the Commission rejects, within 5 days, the  
18 Agency's selection, the Agency shall submit another  
19 recommendation within 3 days based on the proposals  
20 submitted. The Agency shall award a 5-year contract to the  
21 expert or expert consulting firm so selected with  
22 Commission approval.

23 (b) The experts or expert consulting firms retained by the  
24 Agency shall, as appropriate, prepare procurement plans, and  
25 conduct a competitive procurement process as prescribed in  
26 Section 16-111.5 of the Public Utilities Act, to ensure

1 adequate, reliable, affordable, efficient, and environmentally  
2 sustainable electric service at the lowest total cost over  
3 time, taking into account any benefits of price stability, for  
4 eligible retail customers of electric utilities that on  
5 December 31, 2005 provided electric service to at least  
6 100,000 customers in the State of Illinois, and for eligible  
7 Illinois retail customers of small multi-jurisdictional  
8 electric utilities that (i) on December 31, 2005 served less  
9 than 100,000 customers in Illinois and (ii) request a  
10 procurement plan for their Illinois jurisdictional load.

11 (c) Renewable portfolio standard.

12 (1) (A) The Agency shall develop a long-term renewable  
13 resources procurement plan that shall include procurement  
14 programs and competitive procurement events necessary to  
15 meet the goals set forth in this subsection (c). The  
16 initial long-term renewable resources procurement plan  
17 shall be released for comment no later than 160 days after  
18 June 1, 2017 (the effective date of Public Act 99-906).  
19 The Agency shall review, and may revise on an expedited  
20 basis, the long-term renewable resources procurement plan  
21 at least every 2 years, which shall be conducted in  
22 conjunction with the procurement plan under Section  
23 16-111.5 of the Public Utilities Act to the extent  
24 practicable to minimize administrative expense. No later  
25 than 120 days after the effective date of this amendatory  
26 Act of the 103rd General Assembly, the Agency shall

1 release for comment a revision to the long-term renewable  
2 resources procurement plan, updating elements of the most  
3 recently approved plan as needed to comply with this  
4 amendatory Act of the 103rd General Assembly, and any  
5 long-term renewable resources procurement plan update  
6 published by the Agency but not yet approved by the  
7 Illinois Commerce Commission shall be withdrawn. The  
8 long-term renewable resources procurement plans shall be  
9 subject to review and approval by the Commission under  
10 Section 16-111.5 of the Public Utilities Act.

11 (B) Subject to subparagraph (F) of this paragraph (1),  
12 the long-term renewable resources procurement plan shall  
13 attempt to meet the goals for procurement of renewable  
14 energy credits at levels of at least the following overall  
15 percentages: 13% by the 2017 delivery year; increasing by  
16 at least 1.5% each delivery year thereafter to at least  
17 25% by the 2025 delivery year; increasing by at least 3%  
18 each delivery year thereafter to at least 40% by the 2030  
19 delivery year, and continuing at no less than 40% for each  
20 delivery year thereafter. The Agency shall attempt to  
21 procure 50% by delivery year 2040. The Agency shall  
22 determine the annual increase between delivery year 2030  
23 and delivery year 2040, if any, taking into account energy  
24 demand, other energy resources, and other public policy  
25 goals. In the event of a conflict between these goals and  
26 the new wind, new photovoltaic, and hydropower procurement

1 requirements described in items (i) through (iii) of  
2 subparagraph (C) of this paragraph (1), the long-term plan  
3 shall prioritize compliance with the new wind, new  
4 photovoltaic, and hydropower procurement requirements  
5 described in items (i) through (iii) of subparagraph (C)  
6 of this paragraph (1) over the annual percentage targets  
7 described in this subparagraph (B). The Agency shall not  
8 comply with the annual percentage targets described in  
9 this subparagraph (B) by procuring renewable energy  
10 credits that are unlikely to lead to the development of  
11 new renewable resources or new, modernized, or retooled  
12 hydropower facilities.

13 For the delivery year beginning June 1, 2017, the  
14 procurement plan shall attempt to include, subject to the  
15 prioritization outlined in this subparagraph (B),  
16 cost-effective renewable energy resources equal to at  
17 least 13% of each utility's load for eligible retail  
18 customers and 13% of the applicable portion of each  
19 utility's load for retail customers who are not eligible  
20 retail customers, which applicable portion shall equal 50%  
21 of the utility's load for retail customers who are not  
22 eligible retail customers on February 28, 2017.

23 For the delivery year beginning June 1, 2018, the  
24 procurement plan shall attempt to include, subject to the  
25 prioritization outlined in this subparagraph (B),  
26 cost-effective renewable energy resources equal to at

1 least 14.5% of each utility's load for eligible retail  
2 customers and 14.5% of the applicable portion of each  
3 utility's load for retail customers who are not eligible  
4 retail customers, which applicable portion shall equal 75%  
5 of the utility's load for retail customers who are not  
6 eligible retail customers on February 28, 2017.

7 For the delivery year beginning June 1, 2019, and for  
8 each year thereafter, the procurement plans shall attempt  
9 to include, subject to the prioritization outlined in this  
10 subparagraph (B), cost-effective renewable energy  
11 resources equal to a minimum percentage of each utility's  
12 load for all retail customers as follows: 16% by June 1,  
13 2019; increasing by 1.5% each year thereafter to 25% by  
14 June 1, 2025; and 25% by June 1, 2026; increasing by at  
15 least 3% each delivery year thereafter to at least 40% by  
16 the 2030 delivery year, and continuing at no less than 40%  
17 for each delivery year thereafter. The Agency shall  
18 attempt to procure 50% by delivery year 2040. The Agency  
19 shall determine the annual increase between delivery year  
20 2030 and delivery year 2040, if any, taking into account  
21 energy demand, other energy resources, and other public  
22 policy goals.

23 For each delivery year, the Agency shall first  
24 recognize each utility's obligations for that delivery  
25 year under existing contracts. Any renewable energy  
26 credits under existing contracts, including renewable

1 energy credits as part of renewable energy resources,  
2 shall be used to meet the goals set forth in this  
3 subsection (c) for the delivery year.

4 (C) The long-term renewable resources procurement plan  
5 described in subparagraph (A) of this paragraph (1) shall  
6 include the procurement of renewable energy credits from  
7 new projects pursuant to the following terms:

8 (i) At least 10,000,000 renewable energy credits  
9 delivered annually by the end of the 2021 delivery  
10 year, and increasing ratably to reach 45,000,000  
11 renewable energy credits delivered annually from new  
12 wind and solar projects by the end of delivery year  
13 2030 such that the goals in subparagraph (B) of this  
14 paragraph (1) are met entirely by procurements of  
15 renewable energy credits from new wind and  
16 photovoltaic projects. Of that amount, to the extent  
17 possible, the Agency shall procure 45% from wind and  
18 hydropower projects and 55% from photovoltaic  
19 projects. Of the amount to be procured from  
20 photovoltaic projects, the Agency shall procure: at  
21 least 50% from solar photovoltaic projects using the  
22 program outlined in subparagraph (K) of this paragraph  
23 (1) from distributed renewable energy generation  
24 devices or community renewable generation projects; at  
25 least 47% from utility-scale solar projects; at least  
26 3% from brownfield site photovoltaic projects that are

1 not community renewable generation projects.

2 In developing the long-term renewable resources  
3 procurement plan, the Agency shall consider other  
4 approaches, in addition to competitive procurements,  
5 that can be used to procure renewable energy credits  
6 from brownfield site photovoltaic projects and thereby  
7 help return blighted or contaminated land to  
8 productive use while enhancing public health and the  
9 well-being of Illinois residents, including those in  
10 environmental justice communities, as defined using  
11 existing methodologies and findings used by the Agency  
12 and its Administrator in its Illinois Solar for All  
13 Program. The Agency shall also consider other  
14 approaches, in addition to competitive procurements,  
15 to procure renewable energy credits from new and  
16 existing hydropower facilities to support the  
17 development and maintenance of these facilities. The  
18 Agency shall explore options to convert existing dams  
19 but shall not consider approaches to develop new dams  
20 where they do not already exist.

21 (ii) In any given delivery year, if forecasted  
22 expenses are less than the maximum budget available  
23 under subparagraph (E) of this paragraph (1), the  
24 Agency shall continue to procure new renewable energy  
25 credits until that budget is exhausted in the manner  
26 outlined in item (i) of this subparagraph (C).



1 (iii) For purposes of this Section:

2 "New wind projects" means wind renewable energy  
3 facilities that are energized after June 1, 2017 for  
4 the delivery year commencing June 1, 2017.

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

11 For purposes of calculating whether the Agency has  
12 procured enough new wind and solar renewable energy  
13 credits required by this subparagraph (C), renewable  
14 energy facilities that have a multi-year renewable  
15 energy credit delivery contract with the utility  
16 through at least delivery year 2030 shall be  
17 considered new, however no renewable energy credits  
18 from contracts entered into before June 1, 2021 shall  
19 be used to calculate whether the Agency has procured  
20 the correct proportion of new wind and new solar  
21 contracts described in this subparagraph (C) for  
22 delivery year 2021 and thereafter.

23 (D) Renewable energy credits shall be cost effective.  
24 For purposes of this subsection (c), "cost effective"  
25 means that the costs of procuring renewable energy  
26 resources do not cause the limit stated in subparagraph

1 (E) of this paragraph (1) to be exceeded and, for  
2 renewable energy credits procured through a competitive  
3 procurement event, do not exceed benchmarks based on  
4 market prices for like products in the region. For  
5 purposes of this subsection (c), "like products" means  
6 contracts for renewable energy credits from the same or  
7 substantially similar technology, same or substantially  
8 similar vintage (new or existing), the same or  
9 substantially similar quantity, and the same or  
10 substantially similar contract length and structure.  
11 Benchmarks shall reflect development, financing, or  
12 related costs resulting from requirements imposed through  
13 other provisions of State law, including, but not limited  
14 to, requirements in subparagraphs (P) and (Q) of this  
15 paragraph (1) and the Renewable Energy Facilities  
16 Agricultural Impact Mitigation Act. Confidential  
17 benchmarks shall be developed by the procurement  
18 administrator, in consultation with the Commission staff,  
19 Agency staff, and the procurement monitor and shall be  
20 subject to Commission review and approval. If price  
21 benchmarks for like products in the region are not  
22 available, the procurement administrator shall establish  
23 price benchmarks based on publicly available data on  
24 regional technology costs and expected current and future  
25 regional energy prices. The benchmarks in this Section  
26 shall not be used to curtail or otherwise reduce

1 contractual obligations entered into by or through the  
2 Agency prior to June 1, 2017 (the effective date of Public  
3 Act 99-906).

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

25 Notwithstanding the requirements of this subsection  
26 (c), the total of renewable energy resources procured

1 under the procurement plan for any single year shall be  
2 subject to the limitations of this subparagraph (E). Such  
3 procurement shall be reduced for all retail customers  
4 based on the amount necessary to limit the annual  
5 estimated average net increase due to the costs of these  
6 resources included in the amounts paid by eligible retail  
7 customers in connection with electric service to no more  
8 than 4.25% of the amount paid per kilowatthour by those  
9 customers during the year ending May 31, 2009. To arrive  
10 at a maximum dollar amount of renewable energy resources  
11 to be procured for the particular delivery year, the  
12 resulting per kilowatthour amount shall be applied to the  
13 actual amount of kilowatthours of electricity delivered,  
14 or applicable portion of such amount as specified in  
15 paragraph (1) of this subsection (c), as applicable, by  
16 the electric utility in the delivery year immediately  
17 prior to the procurement to all retail customers in its  
18 service territory. The calculations required by this  
19 subparagraph (E) shall be made only once for each delivery  
20 year at the time that the renewable energy resources are  
21 procured. Once the determination as to the amount of  
22 renewable energy resources to procure is made based on the  
23 calculations set forth in this subparagraph (E) and the  
24 contracts procuring those amounts are executed, no  
25 subsequent rate impact determinations shall be made and no  
26 adjustments to those contract amounts shall be allowed.

1 All costs incurred under such contracts shall be fully  
2 recoverable by the electric utility as provided in this  
3 Section.

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

11 (i) renewable energy credits under existing  
12 contractual obligations as of June 1, 2021;

13 (i-5) funding for the Illinois Solar for All  
14 Program, as described in subparagraph (O) of this  
15 paragraph (1);

16 (ii) renewable energy credits necessary to comply  
17 with the new wind and new photovoltaic procurement  
18 requirements described in items (i) through (iii) of  
19 subparagraph (C) of this paragraph (1); and

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

22 (G) The following provisions shall apply to the  
23 Agency's procurement of renewable energy credits under  
24 this subsection (c):

25 (i) Notwithstanding whether a long-term renewable  
26 resources procurement plan has been approved, the

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

22 (ii) Notwithstanding whether a long-term renewable  
23 resources procurement plan has been approved, the  
24 Agency shall conduct an initial forward procurement  
25 for renewable energy credits from new utility-scale  
26 solar projects and brownfield site photovoltaic

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

23 (iii) Notwithstanding whether the Commission has  
24 approved the periodic long-term renewable resources  
25 procurement plan revision described in Section  
26 16-111.5 of the Public Utilities Act, the Agency shall

1           conduct at least one subsequent forward procurement  
2           for renewable energy credits from new utility-scale  
3           wind projects, new utility-scale solar projects, and  
4           new brownfield site photovoltaic projects within 240  
5           days after the effective date of this amendatory Act  
6           of the 102nd General Assembly in quantities necessary  
7           to meet the requirements of subparagraph (C) of this  
8           paragraph (1) through the delivery year beginning June  
9           1, 2021.

10           (iv) Notwithstanding whether the Commission has  
11           approved the periodic long-term renewable resources  
12           procurement plan revision described in Section  
13           16-111.5 of the Public Utilities Act, the Agency shall  
14           open capacity for each category in the Adjustable  
15           Block program within 90 days after the effective date  
16           of this amendatory Act of the 102nd General Assembly  
17           manner:

18           (1) The Agency shall open the first block of  
19           annual capacity for the category described in item  
20           (i) of subparagraph (K) of this paragraph (1). The  
21           first block of annual capacity for item (i) shall  
22           be for at least 75 megawatts of total nameplate  
23           capacity. The price of the renewable energy credit  
24           for this block of capacity shall be 4% less than  
25           the price of the last open block in this category.  
26           Projects on a waitlist shall be awarded contracts



1 first in the order in which they appear on the  
2 waitlist. Notwithstanding anything to the  
3 contrary, for those renewable energy credits that  
4 qualify and are procured under this subitem (1) of  
5 this item (iv), the renewable energy credit  
6 delivery contract value shall be paid in full,  
7 based on the estimated generation during the first  
8 15 years of operation, by the contracting  
9 utilities at the time that the facility producing  
10 the renewable energy credits is interconnected at  
11 the distribution system level of the utility and  
12 verified as energized and in compliance by the  
13 Program Administrator. The electric utility shall  
14 receive and retire all renewable energy credits  
15 generated by the project for the first 15 years of  
16 operation. Renewable energy credits generated by  
17 the project thereafter shall not be transferred  
18 under the renewable energy credit delivery  
19 contract with the counterparty electric utility.

20 (2) The Agency shall open the first block of  
21 annual capacity for the category described in item  
22 (ii) of subparagraph (K) of this paragraph (1).  
23 The first block of annual capacity for item (ii)  
24 shall be for at least 75 megawatts of total  
25 nameplate capacity.

26 (A) The price of the renewable energy

1 credit for any project on a waitlist for this  
2 category before the opening of this block  
3 shall be 4% less than the price of the last  
4 open block in this category. Projects on the  
5 waitlist shall be awarded contracts first in  
6 the order in which they appear on the  
7 waitlist. Any projects that are less than or  
8 equal to 25 kilowatts in size on the waitlist  
9 for this capacity shall be moved to the  
10 waitlist for paragraph (1) of this item (iv).  
11 Notwithstanding anything to the contrary,  
12 projects that were on the waitlist prior to  
13 opening of this block shall not be required to  
14 be in compliance with the requirements of  
15 subparagraph (Q) of this paragraph (1) of this  
16 subsection (c). Notwithstanding anything to  
17 the contrary, for those renewable energy  
18 credits procured from projects that were on  
19 the waitlist for this category before the  
20 opening of this block 20% of the renewable  
21 energy credit delivery contract value, based  
22 on the estimated generation during the first  
23 15 years of operation, shall be paid by the  
24 contracting utilities at the time that the  
25 facility producing the renewable energy  
26 credits is interconnected at the distribution

1 system level of the utility and verified as  
2 energized by the Program Administrator. The  
3 remaining portion shall be paid ratably over  
4 the subsequent 4-year period. The electric  
5 utility shall receive and retire all renewable  
6 energy credits generated by the project during  
7 the first 15 years of operation. Renewable  
8 energy credits generated by the project  
9 thereafter shall not be transferred under the  
10 renewable energy credit delivery contract with  
11 the counterparty electric utility.

12 (B) The price of renewable energy credits  
13 for any project not on the waitlist for this  
14 category before the opening of the block shall  
15 be determined and published by the Agency.  
16 Projects not on a waitlist as of the opening  
17 of this block shall be subject to the  
18 requirements of subparagraph (Q) of this  
19 paragraph (1), as applicable. Projects not on  
20 a waitlist as of the opening of this block  
21 shall be subject to the contract provisions  
22 outlined in item (iii) of subparagraph (L) of  
23 this paragraph (1). The Agency shall strive to  
24 publish updated prices and an updated  
25 renewable energy credit delivery contract as  
26 quickly as possible.

1           (3) For opening the first 2 blocks of annual  
2 capacity for projects participating in item (iii)  
3 of subparagraph (K) of paragraph (1) of subsection  
4 (c), projects shall be selected exclusively from  
5 those projects on the ordinal waitlists of  
6 community renewable generation projects  
7 established by the Agency based on the status of  
8 those ordinal waitlists as of December 31, 2020,  
9 and only those projects previously determined to  
10 be eligible for the Agency's April 2019 community  
11 solar project selection process.

12           The first 2 blocks of annual capacity for item  
13 (iii) shall be for 250 megawatts of total  
14 nameplate capacity, with both blocks opening  
15 simultaneously under the schedule outlined in the  
16 paragraphs below. Projects shall be selected as  
17 follows:

18           (A) The geographic balance of selected  
19 projects shall follow the Group classification  
20 found in the Agency's Revised Long-Term  
21 Renewable Resources Procurement Plan, with 70%  
22 of capacity allocated to projects on the Group  
23 B waitlist and 30% of capacity allocated to  
24 projects on the Group A waitlist.

25           (B) Contract awards for waitlisted  
26 projects shall be allocated proportionate to

1 the total nameplate capacity amount across  
2 both ordinal waitlists associated with that  
3 applicant firm or its affiliates, subject to  
4 the following conditions.

5 (i) Each applicant firm having a  
6 waitlisted project eligible for selection  
7 shall receive no less than 500 kilowatts  
8 in awarded capacity across all groups, and  
9 no approved vendor may receive more than  
10 20% of each Group's waitlist allocation.

11 (ii) Each applicant firm, upon  
12 receiving an award of program capacity  
13 proportionate to its waitlisted capacity,  
14 may then determine which waitlisted  
15 projects it chooses to be selected for a  
16 contract award up to that capacity amount.

17 (iii) Assuming all other program  
18 requirements are met, applicant firms may  
19 adjust the nameplate capacity of applicant  
20 projects without losing waitlist  
21 eligibility, so long as no project is  
22 greater than 2,000 kilowatts in size.

23 (iv) Assuming all other program  
24 requirements are met, applicant firms may  
25 adjust the expected production associated  
26 with applicant projects, subject to

1 verification by the Program Administrator.

2 (C) After a review of affiliate  
3 information and the current ordinal waitlists,  
4 the Agency shall announce the nameplate  
5 capacity award amounts associated with  
6 applicant firms no later than 90 days after  
7 the effective date of this amendatory Act of  
8 the 102nd General Assembly.

9 (D) Applicant firms shall submit their  
10 portfolio of projects used to satisfy those  
11 contract awards no less than 90 days after the  
12 Agency's announcement. The total nameplate  
13 capacity of all projects used to satisfy that  
14 portfolio shall be no greater than the  
15 Agency's nameplate capacity award amount  
16 associated with that applicant firm. An  
17 applicant firm may decline, in whole or in  
18 part, its nameplate capacity award without  
19 penalty, with such unmet capacity rolled over  
20 to the next block opening for project  
21 selection under item (iii) of subparagraph (K)  
22 of this subsection (c). Any projects not  
23 included in an applicant firm's portfolio may  
24 reapply without prejudice upon the next block  
25 reopening for project selection under item  
26 (iii) of subparagraph (K) of this subsection

1 (c).

2 (E) The renewable energy credit delivery  
3 contract shall be subject to the contract and  
4 payment terms outlined in item (iv) of  
5 subparagraph (L) of this subsection (c).  
6 Contract instruments used for this  
7 subparagraph shall contain the following  
8 terms:

9 (i) Renewable energy credit prices  
10 shall be fixed, without further adjustment  
11 under any other provision of this Act or  
12 for any other reason, at 10% lower than  
13 prices applicable to the last open block  
14 for this category, inclusive of any adders  
15 available for achieving a minimum of 50%  
16 of subscribers to the project's nameplate  
17 capacity being residential or small  
18 commercial customers with subscriptions of  
19 below 25 kilowatts in size;

20 (ii) A requirement that a minimum of  
21 50% of subscribers to the project's  
22 nameplate capacity be residential or small  
23 commercial customers with subscriptions of  
24 below 25 kilowatts in size;

25 (iii) Permission for the ability of a  
26 contract holder to substitute projects

1 with other waitlisted projects without  
2 penalty should a project receive a  
3 non-binding estimate of costs to construct  
4 the interconnection facilities and any  
5 required distribution upgrades associated  
6 with that project of greater than 30 cents  
7 per watt AC of that project's nameplate  
8 capacity. In developing the applicable  
9 contract instrument, the Agency may  
10 consider whether other circumstances  
11 outside of the control of the applicant  
12 firm should also warrant project  
13 substitution rights.

14 The Agency shall publish a finalized  
15 updated renewable energy credit delivery  
16 contract developed consistent with these terms  
17 and conditions no less than 30 days before  
18 applicant firms must submit their portfolio of  
19 projects pursuant to item (D).

20 (F) To be eligible for an award, the  
21 applicant firm shall certify that not less  
22 than prevailing wage, as determined pursuant  
23 to the Illinois Prevailing Wage Act, was or  
24 will be paid to employees who are engaged in  
25 construction activities associated with a  
26 selected project.



1           (4) The Agency shall open the first block of  
2           annual capacity for the category described in item  
3           (iv) of subparagraph (K) of this paragraph (1).  
4           The first block of annual capacity for item (iv)  
5           shall be for at least 50 megawatts of total  
6           nameplate capacity. Renewable energy credit prices  
7           shall be fixed, without further adjustment under  
8           any other provision of this Act or for any other  
9           reason, at the price in the last open block in the  
10          category described in item (ii) of subparagraph  
11          (K) of this paragraph (1). Pricing for future  
12          blocks of annual capacity for this category may be  
13          adjusted in the Agency's second revision to its  
14          Long-Term Renewable Resources Procurement Plan.  
15          Projects in this category shall be subject to the  
16          contract terms outlined in item (iv) of  
17          subparagraph (L) of this paragraph (1).

18          (5) The Agency shall open the equivalent of 2  
19          years of annual capacity for the category  
20          described in item (v) of subparagraph (K) of this  
21          paragraph (1). The first block of annual capacity  
22          for item (v) shall be for at least 10 megawatts of  
23          total nameplate capacity. Notwithstanding the  
24          provisions of item (v) of subparagraph (K) of this  
25          paragraph (1), for the purpose of this initial  
26          block, the agency shall accept new project

1 applications intended to increase the diversity of  
2 areas hosting community solar projects, the  
3 business models of projects, and the size of  
4 projects, as described by the Agency in its  
5 long-term renewable resources procurement plan  
6 that is approved as of the effective date of this  
7 amendatory Act of the 102nd General Assembly.  
8 Projects in this category shall be subject to the  
9 contract terms outlined in item (iii) of  
10 subsection (L) of this paragraph (1).

11 (6) The Agency shall open the first blocks of  
12 annual capacity for the category described in item  
13 (vi) of subparagraph (K) of this paragraph (1),  
14 with allocations of capacity within the block  
15 generally matching the historical share of block  
16 capacity allocated between the category described  
17 in items (i) and (ii) of subparagraph (K) of this  
18 paragraph (1). The first two blocks of annual  
19 capacity for item (vi) shall be for at least 75  
20 megawatts of total nameplate capacity. The price  
21 of renewable energy credits for the blocks of  
22 capacity shall be 4% less than the price of the  
23 last open blocks in the categories described in  
24 items (i) and (ii) of subparagraph (K) of this  
25 paragraph (1). Pricing for future blocks of annual  
26 capacity for this category may be adjusted in the

1 Agency's second revision to its Long-Term  
2 Renewable Resources Procurement Plan. Projects in  
3 this category shall be subject to the applicable  
4 contract terms outlined in items (ii) and (iii) of  
5 subparagraph (L) of this paragraph (1).

6 (v) Upon the effective date of this amendatory Act  
7 of the 102nd General Assembly, for all competitive  
8 procurements and any procurements of renewable energy  
9 credit from new utility-scale wind and new  
10 utility-scale photovoltaic projects, the Agency shall  
11 procure indexed renewable energy credits and direct  
12 respondents to offer a strike price.

13 (1) The purchase price of the indexed  
14 renewable energy credit payment shall be  
15 calculated for each settlement period. That  
16 payment, for any settlement period, shall be equal  
17 to the difference resulting from subtracting the  
18 strike price from the index price for that  
19 settlement period. If this difference results in a  
20 negative number, the indexed REC counterparty  
21 shall owe the seller the absolute value multiplied  
22 by the quantity of energy produced in the relevant  
23 settlement period. If this difference results in a  
24 positive number, the seller shall owe the indexed  
25 REC counterparty this amount multiplied by the  
26 quantity of energy produced in the relevant

1 settlement period.

2 (2) Parties shall cash settle every month,  
3 summing up all settlements (both positive and  
4 negative, if applicable) for the prior month.

5 (3) To ensure funding in the annual budget  
6 established under subparagraph (E) for indexed  
7 renewable energy credit procurements for each year  
8 of the term of such contracts, which must have a  
9 minimum tenure of 20 calendar years, the  
10 procurement administrator, Agency, Commission  
11 staff, and procurement monitor shall quantify the  
12 annual cost of the contract by utilizing an  
13 industry-standard, third-party forward price curve  
14 for energy at the appropriate hub or load zone,  
15 including the estimated magnitude and timing of  
16 the price effects related to federal carbon  
17 controls. Each forward price curve shall contain a  
18 specific value of the forecasted market price of  
19 electricity for each annual delivery year of the  
20 contract. For procurement planning purposes, the  
21 impact on the annual budget for the cost of  
22 indexed renewable energy credits for each delivery  
23 year shall be determined as the expected annual  
24 contract expenditure for that year, equaling the  
25 difference between (i) the sum across all relevant  
26 contracts of the applicable strike price

1 multiplied by contract quantity and (ii) the sum  
2 across all relevant contracts of the forward price  
3 curve for the applicable load zone for that year  
4 multiplied by contract quantity. The contracting  
5 utility shall not assume an obligation in excess  
6 of the estimated annual cost of the contracts for  
7 indexed renewable energy credits. Forward curves  
8 shall be revised on an annual basis as updated  
9 forward price curves are released and filed with  
10 the Commission in the proceeding approving the  
11 Agency's most recent long-term renewable resources  
12 procurement plan. If the expected contract spend  
13 is higher or lower than the total quantity of  
14 contracts multiplied by the forward price curve  
15 value for that year, the forward price curve shall  
16 be updated by the procurement administrator, in  
17 consultation with the Agency, Commission staff,  
18 and procurement monitors, using then-currently  
19 available price forecast data and additional  
20 budget dollars shall be obligated or reobligated  
21 as appropriate.

22 (4) To ensure that indexed renewable energy  
23 credit prices remain predictable and affordable,  
24 the Agency may consider the institution of a price  
25 collar on REC prices paid under indexed renewable  
26 energy credit procurements establishing floor and

1 ceiling REC prices applicable to indexed REC  
2 contract prices. Any price collars applicable to  
3 indexed REC procurements shall be proposed by the  
4 Agency through its long-term renewable resources  
5 procurement plan.

6 (vi) All procurements under this subparagraph (G),  
7 including the procurement of renewable energy credits  
8 from hydropower facilities, shall comply with the  
9 geographic requirements in subparagraph (I) of this  
10 paragraph (1) and shall follow the procurement  
11 processes and procedures described in this Section and  
12 Section 16-111.5 of the Public Utilities Act to the  
13 extent practicable, and these processes and procedures  
14 may be expedited to accommodate the schedule  
15 established by this subparagraph (G).

16 (vii) On and after the effective date of this  
17 amendatory Act of the 103rd General Assembly, for all  
18 procurements of renewable energy credits from  
19 hydropower facilities, the Agency shall establish  
20 contract terms designed to optimize existing  
21 hydropower facilities through modernization or  
22 retooling and establish new hydropower facilities at  
23 existing dams. Procurements made under this item (vii)  
24 shall prioritize projects located in designated  
25 environmental justice communities, as defined in  
26 subsection (b) of Section 1-56 of this Act, or in

1 projects located in units of local government with  
2 median incomes that do not exceed 82% of the median  
3 income of the State.

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

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

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

26 (ii) For a given delivery year, the alternative

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

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

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



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

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

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

1 delivery year immediately preceding that delivery  
2 year, provided that the 14.5% shall increase by 1.5%  
3 each delivery year thereafter to 25% by the delivery  
4 year beginning June 1, 2025, and thereafter the 25%  
5 value shall apply to each delivery year.

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

24 On or before April 1 of each year, the Agency shall  
25 annually publish a report on its website that  
26 identifies the aggregate amount of renewable energy

1 credits supplied by alternative retail electric  
2 suppliers under this subparagraph (H).

3 (I) The Agency shall design its long-term renewable  
4 energy procurement plan to maximize the State's interest  
5 in the health, safety, and welfare of its residents,  
6 including but not limited to minimizing sulfur dioxide,  
7 nitrogen oxide, particulate matter and other pollution  
8 that adversely affects public health in this State,  
9 increasing fuel and resource diversity in this State,  
10 enhancing the reliability and resiliency of the  
11 electricity distribution system in this State, meeting  
12 goals to limit carbon dioxide emissions under federal or  
13 State law, and contributing to a cleaner and healthier  
14 environment for the citizens of this State. In order to  
15 further these legislative purposes, renewable energy  
16 credits shall be eligible to be counted toward the  
17 renewable energy requirements of this subsection (c) if  
18 they are generated from facilities located in this State.  
19 The Agency may qualify renewable energy credits from  
20 facilities located in states adjacent to Illinois or  
21 renewable energy credits associated with the electricity  
22 generated by a utility-scale wind energy facility or  
23 utility-scale photovoltaic facility and transmitted by a  
24 qualifying direct current project described in subsection  
25 (b-5) of Section 8-406 of the Public Utilities Act to a  
26 delivery point on the electric transmission grid located

1 in this State or a state adjacent to Illinois, if the  
2 generator demonstrates and the Agency determines that the  
3 operation of such facility or facilities will help promote  
4 the State's interest in the health, safety, and welfare of  
5 its residents based on the public interest criteria  
6 described above. For the purposes of this Section,  
7 renewable resources that are delivered via a high voltage  
8 direct current converter station located in Illinois shall  
9 be deemed generated in Illinois at the time and location  
10 the energy is converted to alternating current by the high  
11 voltage direct current converter station if the high  
12 voltage direct current transmission line: (i) after the  
13 effective date of this amendatory Act of the 102nd General  
14 Assembly, was constructed with a project labor agreement;  
15 (ii) is capable of transmitting electricity at 525kv;  
16 (iii) has an Illinois converter station located and  
17 interconnected in the region of the PJM Interconnection,  
18 LLC; (iv) does not operate as a public utility; and (v) if  
19 the high voltage direct current transmission line was  
20 energized after June 1, 2023. To ensure that the public  
21 interest criteria are applied to the procurement and given  
22 full effect, the Agency's long-term procurement plan shall  
23 describe in detail how each public interest factor shall  
24 be considered and weighted for facilities located in  
25 states adjacent to Illinois.

26 (J) In order to promote the competitive development of

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

24 Notwithstanding the limitations of this subparagraph  
25 (J), renewable energy credits sourced from generating  
26 units that are constructed, purchased, owned, or leased by

1 an electric utility as part of an approved project,  
2 program, or pilot under Section 1-56 of this Act shall be  
3 eligible to be counted toward the renewable energy  
4 requirements of this subsection (c), regardless of how the  
5 costs of these units are recovered. As long as a  
6 generating unit or an identifiable portion of a generating  
7 unit has not had and does not have its costs recovered  
8 through rates regulated by this State or any other state,  
9 HVDC renewable energy credits associated with that  
10 generating unit or identifiable portion thereof shall be  
11 eligible to be counted toward the renewable energy  
12 requirements of this subsection (c).

13 (K) The long-term renewable resources procurement plan  
14 developed by the Agency in accordance with subparagraph  
15 (A) of this paragraph (1) shall include an Adjustable  
16 Block program for the procurement of renewable energy  
17 credits from new photovoltaic projects that are  
18 distributed renewable energy generation devices or new  
19 photovoltaic community renewable generation projects. The  
20 Adjustable Block program shall be generally designed to  
21 provide for the steady, predictable, and sustainable  
22 growth of new solar photovoltaic development in Illinois.  
23 To this end, the Adjustable Block program shall provide a  
24 transparent annual schedule of prices and quantities to  
25 enable the photovoltaic market to scale up and for  
26 renewable energy credit prices to adjust at a predictable

1 rate over time. The prices set by the Adjustable Block  
2 program can be reflected as a set value or as the product  
3 of a formula.

4 The Adjustable Block program shall include for each  
5 category of eligible projects for each delivery year: a  
6 single block of nameplate capacity, a price for renewable  
7 energy credits within that block, and the terms and  
8 conditions for securing a spot on a waitlist once the  
9 block is fully committed or reserved. Except as outlined  
10 below, the waitlist of projects in a given year will carry  
11 over to apply to the subsequent year when another block is  
12 opened. Only projects energized on or after June 1, 2017  
13 shall be eligible for the Adjustable Block program. For  
14 each category for each delivery year the Agency shall  
15 determine the amount of generation capacity in each block,  
16 and the purchase price for each block, provided that the  
17 purchase price provided and the total amount of generation  
18 in all blocks for all categories shall be sufficient to  
19 meet the goals in this subsection (c). The Agency shall  
20 strive to issue a single block sized to provide for  
21 stability and market growth. The Agency shall establish  
22 program eligibility requirements that ensure that projects  
23 that enter the program are sufficiently mature to indicate  
24 a demonstrable path to completion. The Agency may  
25 periodically review its prior decisions establishing the  
26 amount of generation capacity in each block, and the

1 purchase price for each block, and may propose, on an  
2 expedited basis, changes to these previously set values,  
3 including but not limited to redistributing these amounts  
4 and the available funds as necessary and appropriate,  
5 subject to Commission approval as part of the periodic  
6 plan revision process described in Section 16-111.5 of the  
7 Public Utilities Act. The Agency may define different  
8 block sizes, purchase prices, or other distinct terms and  
9 conditions for projects located in different utility  
10 service territories if the Agency deems it necessary to  
11 meet the goals in this subsection (c).

12 The Adjustable Block program shall include the  
13 following categories in at least the following amounts:

14 (i) At least 20% from distributed renewable energy  
15 generation devices with a nameplate capacity of no  
16 more than 25 kilowatts.

17 (ii) At least 20% from distributed renewable  
18 energy generation devices with a nameplate capacity of  
19 more than 25 kilowatts and no more than 5,000  
20 kilowatts. The Agency may create sub-categories within  
21 this category to account for the differences between  
22 projects for small commercial customers, large  
23 commercial customers, and public or non-profit  
24 customers.

25 (iii) At least 30% from photovoltaic community  
26 renewable generation projects. Capacity for this



1 category for the first 2 delivery years after the  
2 effective date of this amendatory Act of the 102nd  
3 General Assembly shall be allocated to waitlist  
4 projects as provided in paragraph (3) of item (iv) of  
5 subparagraph (G). Starting in the third delivery year  
6 after the effective date of this amendatory Act of the  
7 102nd General Assembly or earlier if the Agency  
8 determines there is additional capacity needed for to  
9 meet previous delivery year requirements, the  
10 following shall apply:

11 (1) the Agency shall select projects on a  
12 first-come, first-serve basis, however the Agency  
13 may suggest additional methods to prioritize  
14 projects that are submitted at the same time;

15 (2) projects shall have subscriptions of 25 kW  
16 or less for at least 50% of the facility's  
17 nameplate capacity and the Agency shall price the  
18 renewable energy credits with that as a factor;

19 (3) projects shall not be colocated with one  
20 or more other community renewable generation  
21 projects, as defined in the Agency's first revised  
22 long-term renewable resources procurement plan  
23 approved by the Commission on February 18, 2020,  
24 such that the aggregate nameplate capacity exceeds  
25 5,000 kilowatts; and

26 (4) projects greater than 2 MW may not apply

1           until after the approval of the Agency's revised  
2           Long-Term Renewable Resources Procurement Plan  
3           after the effective date of this amendatory Act of  
4           the 102nd General Assembly.

5           (iv) At least 15% from distributed renewable  
6           generation devices or photovoltaic community renewable  
7           generation projects installed on public school land.  
8           The Agency may create subcategories within this  
9           category to account for the differences between  
10          project size or location. Projects located within  
11          environmental justice communities or within  
12          Organizational Units that fall within Tier 1 or Tier 2  
13          shall be given priority. Each of the Agency's periodic  
14          updates to its long-term renewable resources  
15          procurement plan to incorporate the procurement  
16          described in this subparagraph (iv) shall also include  
17          the proposed quantities or blocks, pricing, and  
18          contract terms applicable to the procurement as  
19          indicated herein. In each such update and procurement,  
20          the Agency shall set the renewable energy credit price  
21          and establish payment terms for the renewable energy  
22          credits procured pursuant to this subparagraph (iv)  
23          that make it feasible and affordable for public  
24          schools to install photovoltaic distributed renewable  
25          energy devices on their premises, including, but not  
26          limited to, those public schools subject to the

1 prioritization provisions of this subparagraph. For  
2 the purposes of this item (iv):

3 "Environmental Justice Community" shall have the  
4 same meaning set forth in the Agency's long-term  
5 renewable resources procurement plan;

6 "Organization Unit", "Tier 1" and "Tier 2" shall  
7 have the meanings set for in Section 18-8.15 of the  
8 School Code;

9 "Public schools" shall have the meaning set forth  
10 in Section 1-3 of the School Code and includes public  
11 institutions of higher education, as defined in the  
12 Board of Higher Education Act.

13 (v) At least 5% from community-driven community  
14 solar projects intended to provide more direct and  
15 tangible connection and benefits to the communities  
16 which they serve or in which they operate and,  
17 additionally, to increase the variety of community  
18 solar locations, models, and options in Illinois. As  
19 part of its long-term renewable resources procurement  
20 plan, the Agency shall develop selection criteria for  
21 projects participating in this category. Nothing in  
22 this Section shall preclude the Agency from creating a  
23 selection process that maximizes community ownership  
24 and community benefits in selecting projects to  
25 receive renewable energy credits. Selection criteria  
26 shall include:

1           (1) community ownership or community  
2 wealth-building;

3           (2) additional direct and indirect community  
4 benefit, beyond project participation as a  
5 subscriber, including, but not limited to,  
6 economic, environmental, social, cultural, and  
7 physical benefits;

8           (3) meaningful involvement in project  
9 organization and development by community members  
10 or nonprofit organizations or public entities  
11 located in or serving the community;

12           (4) engagement in project operations and  
13 management by nonprofit organizations, public  
14 entities, or community members; and

15           (5) whether a project is developed in response  
16 to a site-specific RFP developed by community  
17 members or a nonprofit organization or public  
18 entity located in or serving the community.

19           Selection criteria may also prioritize projects  
20 that:

21           (1) are developed in collaboration with or to  
22 provide complementary opportunities for the Clean  
23 Jobs Workforce Network Program, the Illinois  
24 Climate Works Preapprenticeship Program, the  
25 Returning Residents Clean Jobs Training Program,  
26 the Clean Energy Contractor Incubator Program, or

1 the Clean Energy Primes Contractor Accelerator  
2 Program;

3 (2) increase the diversity of locations of  
4 community solar projects in Illinois, including by  
5 locating in urban areas and population centers;

6 (3) are located in Equity Investment Eligible  
7 Communities;

8 (4) are not greenfield projects;

9 (5) serve only local subscribers;

10 (6) have a nameplate capacity that does not  
11 exceed 500 kW;

12 (7) are developed by an equity eligible  
13 contractor; or

14 (8) otherwise meaningfully advance the goals  
15 of providing more direct and tangible connection  
16 and benefits to the communities which they serve  
17 or in which they operate and increasing the  
18 variety of community solar locations, models, and  
19 options in Illinois.

20 For the purposes of this item (v):

21 "Community" means a social unit in which people  
22 come together regularly to effect change; a social  
23 unit in which participants are marked by a cooperative  
24 spirit, a common purpose, or shared interests or  
25 characteristics; or a space understood by its  
26 residents to be delineated through geographic

1 boundaries or landmarks.

2 "Community benefit" means a range of services and  
3 activities that provide affirmative, economic,  
4 environmental, social, cultural, or physical value to  
5 a community; or a mechanism that enables economic  
6 development, high-quality employment, and education  
7 opportunities for local workers and residents, or  
8 formal monitoring and oversight structures such that  
9 community members may ensure that those services and  
10 activities respond to local knowledge and needs.

11 "Community ownership" means an arrangement in  
12 which an electric generating facility is, or over time  
13 will be, in significant part, owned collectively by  
14 members of the community to which an electric  
15 generating facility provides benefits; members of that  
16 community participate in decisions regarding the  
17 governance, operation, maintenance, and upgrades of  
18 and to that facility; and members of that community  
19 benefit from regular use of that facility.

20 Terms and guidance within these criteria that are  
21 not defined in this item (v) shall be defined by the  
22 Agency, with stakeholder input, during the development  
23 of the Agency's long-term renewable resources  
24 procurement plan. The Agency shall develop regular  
25 opportunities for projects to submit applications for  
26 projects under this category, and develop selection

1 criteria that gives preference to projects that better  
2 meet individual criteria as well as projects that  
3 address a higher number of criteria.

4 (vi) At least 10% from distributed renewable  
5 energy generation devices, which includes distributed  
6 renewable energy devices with a nameplate capacity  
7 under 5,000 kilowatts or photovoltaic community  
8 renewable generation projects, from applicants that  
9 are equity eligible contractors. The Agency may create  
10 subcategories within this category to account for the  
11 differences between project size and type. The Agency  
12 shall propose to increase the percentage in this item  
13 (vi) over time to 40% based on factors, including, but  
14 not limited to, the number of equity eligible  
15 contractors and capacity used in this item (vi) in  
16 previous delivery years.

17 The Agency shall propose a payment structure for  
18 contracts executed pursuant to this paragraph under  
19 which, upon a demonstration of qualification or need,  
20 applicant firms are advanced capital disbursed after  
21 contract execution but before the contracted project's  
22 energization. The amount or percentage of capital  
23 advanced prior to project energization shall be  
24 sufficient to both cover any increase in development  
25 costs resulting from prevailing wage requirements or  
26 project-labor agreements, and designed to overcome

1 barriers in access to capital faced by equity eligible  
2 contractors. The amount or percentage of advanced  
3 capital may vary by subcategory within this category  
4 and by an applicant's demonstration of need, with such  
5 levels to be established through the Long-Term  
6 Renewable Resources Procurement Plan authorized under  
7 subparagraph (A) of paragraph (1) of subsection (c) of  
8 this Section.

9 Contracts developed featuring capital advanced  
10 prior to a project's energization shall feature  
11 provisions to ensure both the successful development  
12 of applicant projects and the delivery of the  
13 renewable energy credits for the full term of the  
14 contract, including ongoing collateral requirements  
15 and other provisions deemed necessary by the Agency,  
16 and may include energization timelines longer than for  
17 comparable project types. The percentage or amount of  
18 capital advanced prior to project energization shall  
19 not operate to increase the overall contract value,  
20 however contracts executed under this subparagraph may  
21 feature renewable energy credit prices higher than  
22 those offered to similar projects participating in  
23 other categories. Capital advanced prior to  
24 energization shall serve to reduce the ratable  
25 payments made after energization under items (ii) and  
26 (iii) of subparagraph (L) or payments made for each



1 renewable energy credit delivery under item (iv) of  
2 subparagraph (L).

3 (vii) The remaining capacity shall be allocated by  
4 the Agency in order to respond to market demand. The  
5 Agency shall allocate any discretionary capacity prior  
6 to the beginning of each delivery year.

7 To the extent there is uncontracted capacity from any  
8 block in any of categories (i) through (vi) at the end of a  
9 delivery year, the Agency shall redistribute that capacity  
10 to one or more other categories giving priority to  
11 categories with projects on a waitlist. The redistributed  
12 capacity shall be added to the annual capacity in the  
13 subsequent delivery year, and the price for renewable  
14 energy credits shall be the price for the new delivery  
15 year. Redistributed capacity shall not be considered  
16 redistributed when determining whether the goals in this  
17 subsection (K) have been met.

18 Notwithstanding anything to the contrary, as the  
19 Agency increases the capacity in item (vi) to 40% over  
20 time, the Agency may reduce the capacity of items (i)  
21 through (v) proportionate to the capacity of the  
22 categories of projects in item (vi), to achieve a balance  
23 of project types.

24 The Adjustable Block program shall be designed to  
25 ensure that renewable energy credits are procured from  
26 projects in diverse locations and are not concentrated in

1 a few regional areas.

2 (L) Notwithstanding provisions for advancing capital  
3 prior to project energization found in item (vi) of  
4 subparagraph (K), the procurement of photovoltaic  
5 renewable energy credits under items (i) through (vi) of  
6 subparagraph (K) of this paragraph (1) shall otherwise be  
7 subject to the following contract and payment terms:

8 (i) (Blank).

9 (ii) For those renewable energy credits that  
10 qualify and are procured under item (i) of  
11 subparagraph (K) of this paragraph (1), and any  
12 similar category projects that are procured under item  
13 (vi) of subparagraph (K) of this paragraph (1) that  
14 qualify and are procured under item (vi), the contract  
15 length shall be 15 years. The renewable energy credit  
16 delivery contract value shall be paid in full, based  
17 on the estimated generation during the first 15 years  
18 of operation, by the contracting utilities at the time  
19 that the facility producing the renewable energy  
20 credits is interconnected at the distribution system  
21 level of the utility and verified as energized and  
22 compliant by the Program Administrator. The electric  
23 utility shall receive and retire all renewable energy  
24 credits generated by the project for the first 15  
25 years of operation. Renewable energy credits generated  
26 by the project thereafter shall not be transferred

1 under the renewable energy credit delivery contract  
2 with the counterparty electric utility.

3 (iii) For those renewable energy credits that  
4 qualify and are procured under item (ii) and (v) of  
5 subparagraph (K) of this paragraph (1) and any like  
6 projects similar category that qualify and are  
7 procured under item (vi), the contract length shall be  
8 15 years. 15% of the renewable energy credit delivery  
9 contract value, based on the estimated generation  
10 during the first 15 years of operation, shall be paid  
11 by the contracting utilities at the time that the  
12 facility producing the renewable energy credits is  
13 interconnected at the distribution system level of the  
14 utility and verified as energized and compliant by the  
15 Program Administrator. The remaining portion shall be  
16 paid ratably over the subsequent 6-year period. The  
17 electric utility shall receive and retire all  
18 renewable energy credits generated by the project for  
19 the first 15 years of operation. Renewable energy  
20 credits generated by the project thereafter shall not  
21 be transferred under the renewable energy credit  
22 delivery contract with the counterparty electric  
23 utility.

24 (iv) For those renewable energy credits that  
25 qualify and are procured under items (iii) and (iv) of  
26 subparagraph (K) of this paragraph (1), and any like

1 projects that qualify and are procured under item  
2 (vi), the renewable energy credit delivery contract  
3 length shall be 20 years and shall be paid over the  
4 delivery term, not to exceed during each delivery year  
5 the contract price multiplied by the estimated annual  
6 renewable energy credit generation amount. If  
7 generation of renewable energy credits during a  
8 delivery year exceeds the estimated annual generation  
9 amount, the excess renewable energy credits shall be  
10 carried forward to future delivery years and shall not  
11 expire during the delivery term. If generation of  
12 renewable energy credits during a delivery year,  
13 including carried forward excess renewable energy  
14 credits, if any, is less than the estimated annual  
15 generation amount, payments during such delivery year  
16 will not exceed the quantity generated plus the  
17 quantity carried forward multiplied by the contract  
18 price. The electric utility shall receive all  
19 renewable energy credits generated by the project  
20 during the first 20 years of operation and retire all  
21 renewable energy credits paid for under this item (iv)  
22 and return at the end of the delivery term all  
23 renewable energy credits that were not paid for.  
24 Renewable energy credits generated by the project  
25 thereafter shall not be transferred under the  
26 renewable energy credit delivery contract with the

1           counterparty electric utility. Notwithstanding the  
2           preceding, for those projects participating under item  
3           (iii) of subparagraph (K), the contract price for a  
4           delivery year shall be based on subscription levels as  
5           measured on the higher of the first business day of the  
6           delivery year or the first business day 6 months after  
7           the first business day of the delivery year.  
8           Subscription of 90% of nameplate capacity or greater  
9           shall be deemed to be fully subscribed for the  
10          purposes of this item (iv). For projects receiving a  
11          20-year delivery contract, REC prices shall be  
12          adjusted downward for consistency with the incentive  
13          levels previously determined to be necessary to  
14          support projects under 15-year delivery contracts,  
15          taking into consideration any additional new  
16          requirements placed on the projects, including, but  
17          not limited to, labor standards.

18                 (v) Each contract shall include provisions to  
19                 ensure the delivery of the estimated quantity of  
20                 renewable energy credits and ongoing collateral  
21                 requirements and other provisions deemed appropriate  
22                 by the Agency.

23                 (vi) The utility shall be the counterparty to the  
24                 contracts executed under this subparagraph (L) that  
25                 are approved by the Commission under the process  
26                 described in Section 16-111.5 of the Public Utilities

1 Act. No contract shall be executed for an amount that  
2 is less than one renewable energy credit per year.

3 (vii) If, at any time, approved applications for  
4 the Adjustable Block program exceed funds collected by  
5 the electric utility or would cause the Agency to  
6 exceed the limitation described in subparagraph (E) of  
7 this paragraph (1) on the amount of renewable energy  
8 resources that may be procured, then the Agency may  
9 consider future uncommitted funds to be reserved for  
10 these contracts on a first-come, first-served basis.

11 (viii) Nothing in this Section shall require the  
12 utility to advance any payment or pay any amounts that  
13 exceed the actual amount of revenues anticipated to be  
14 collected by the utility under paragraph (6) of this  
15 subsection (c) and subsection (k) of Section 16-108 of  
16 the Public Utilities Act inclusive of eligible funds  
17 collected in prior years and alternative compliance  
18 payments for use by the utility, and contracts  
19 executed under this Section shall expressly  
20 incorporate this limitation.

21 (ix) Notwithstanding other requirements of this  
22 subparagraph (L), no modification shall be required to  
23 Adjustable Block program contracts if they were  
24 already executed prior to the establishment, approval,  
25 and implementation of new contract forms as a result  
26 of this amendatory Act of the 102nd General Assembly.

1           (x) Contracts may be assignable, but only to  
2           entities first deemed by the Agency to have met  
3           program terms and requirements applicable to direct  
4           program participation. In developing contracts for the  
5           delivery of renewable energy credits, the Agency shall  
6           be permitted to establish fees applicable to each  
7           contract assignment.

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

23          The Program Administrator may charge application fees  
24          to participating firms to cover the cost of program  
25          administration. Any application fee amounts shall  
26          initially be determined through the long-term renewable

1 resources procurement plan, and modifications to any  
2 application fee that deviate more than 25% from the  
3 Commission's approved value must be approved by the  
4 Commission as a long-term plan revision under Section  
5 16-111.5 of the Public Utilities Act. The Agency shall  
6 consider stakeholder feedback when making adjustments to  
7 application fees and shall notify stakeholders in advance  
8 of any planned changes.

9 In addition to covering the costs of program  
10 administration, the Agency, in conjunction with its  
11 Program Administrator, may also use the proceeds of such  
12 fees charged to participating firms to support public  
13 education and ongoing regional and national coordination  
14 with nonprofit organizations, public bodies, and others  
15 engaged in the implementation of renewable energy  
16 incentive programs or similar initiatives. This work may  
17 include developing papers and reports, hosting regional  
18 and national conferences, and other work deemed necessary  
19 by the Agency to position the State of Illinois as a  
20 national leader in renewable energy incentive program  
21 development and administration.

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



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

15 The Agency and its program administrators for both the  
16 Adjustable Block program and the Illinois Solar for All  
17 Program, consistent with the requirements of this  
18 subsection (c) and subsection (b) of Section 1-56 of this  
19 Act, shall propose the Adjustable Block program terms,  
20 conditions, and requirements, including the prices to be  
21 paid for renewable energy credits, where applicable, and  
22 requirements applicable to participating entities and  
23 project applications, through the development, review, and  
24 approval of the Agency's long-term renewable resources  
25 procurement plan described in this subsection (c) and  
26 paragraph (5) of subsection (b) of Section 16-111.5 of the

1 Public Utilities Act. Terms, conditions, and requirements  
2 for program participation shall include the following:

3 (i) The Agency shall establish a registration  
4 process for entities seeking to qualify for  
5 program-administered incentive funding and establish  
6 baseline qualifications for vendor approval. The  
7 Agency must maintain a list of approved entities on  
8 each program's website, and may revoke a vendor's  
9 ability to receive program-administered incentive  
10 funding status upon a determination that the vendor  
11 failed to comply with contract terms, the law, or  
12 other program requirements.

13 (ii) The Agency shall establish program  
14 requirements and minimum contract terms to ensure  
15 projects are properly installed and produce their  
16 expected amounts of energy. Program requirements may  
17 include on-site inspections and photo documentation of  
18 projects under construction. The Agency may require  
19 repairs, alterations, or additions to remedy any  
20 material deficiencies discovered. Vendors who have a  
21 disproportionately high number of deficient systems  
22 may lose their eligibility to continue to receive  
23 State-administered incentive funding through Agency  
24 programs and procurements.

25 (iii) To discourage deceptive marketing or other  
26 bad faith business practices, the Agency may require

1 direct program participants, including agents  
2 operating on their behalf, to provide standardized  
3 disclosures to a customer prior to that customer's  
4 execution of a contract for the development of a  
5 distributed generation system or a subscription to a  
6 community solar project.

7 (iv) The Agency shall establish one or multiple  
8 Consumer Complaints Centers to accept complaints  
9 regarding businesses that participate in, or otherwise  
10 benefit from, State-administered incentive funding  
11 through Agency-administered programs. The Agency shall  
12 maintain a public database of complaints with any  
13 confidential or particularly sensitive information  
14 redacted from public entries.

15 (v) Through a filing in the proceeding for the  
16 approval of its long-term renewable energy resources  
17 procurement plan, the Agency shall provide an annual  
18 written report to the Illinois Commerce Commission  
19 documenting the frequency and nature of complaints and  
20 any enforcement actions taken in response to those  
21 complaints.

22 (vi) The Agency shall schedule regular meetings  
23 with representatives of the Office of the Attorney  
24 General, the Illinois Commerce Commission, consumer  
25 protection groups, and other interested stakeholders  
26 to share relevant information about consumer

1 protection, project compliance, and complaints  
2 received.

3 (vii) To the extent that complaints received  
4 implicate the jurisdiction of the Office of the  
5 Attorney General, the Illinois Commerce Commission, or  
6 local, State, or federal law enforcement, the Agency  
7 shall also refer complaints to those entities as  
8 appropriate.

9 (N) The Agency shall establish the terms, conditions,  
10 and program requirements for photovoltaic community  
11 renewable generation projects with a goal to expand access  
12 to a broader group of energy consumers, to ensure robust  
13 participation opportunities for residential and small  
14 commercial customers and those who cannot install  
15 renewable energy on their own properties. Subject to  
16 reasonable limitations, any plan approved by the  
17 Commission shall allow subscriptions to community  
18 renewable generation projects to be portable and  
19 transferable. For purposes of this subparagraph (N),  
20 "portable" means that subscriptions may be retained by the  
21 subscriber even if the subscriber relocates or changes its  
22 address within the same utility service territory; and  
23 "transferable" means that a subscriber may assign or sell  
24 subscriptions to another person within the same utility  
25 service territory.

26 Through the development of its long-term renewable

1 resources procurement plan, the Agency may consider  
2 whether community renewable generation projects utilizing  
3 technologies other than photovoltaics should be supported  
4 through State-administered incentive funding, and may  
5 issue requests for information to gauge market demand.

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

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

22 The owners of and any subscribers to a community  
23 renewable generation project shall not be considered  
24 public utilities or alternative retail electricity  
25 suppliers under the Public Utilities Act solely as a  
26 result of their interest in or subscription to a community

1 renewable generation project and shall not be required to  
2 become an alternative retail electric supplier by  
3 participating in a community renewable generation project  
4 with a public utility.

5 (O) For the delivery year beginning June 1, 2018, the  
6 long-term renewable resources procurement plan required by  
7 this subsection (c) shall provide for the Agency to  
8 procure contracts to continue offering the Illinois Solar  
9 for All Program described in subsection (b) of Section  
10 1-56 of this Act, and the contracts approved by the  
11 Commission shall be executed by the utilities that are  
12 subject to this subsection (c). The long-term renewable  
13 resources procurement plan shall allocate up to  
14 \$50,000,000 per delivery year to fund the programs, and  
15 the plan shall determine the amount of funding to be  
16 apportioned to the programs identified in subsection (b)  
17 of Section 1-56 of this Act; provided that for the  
18 delivery years beginning June 1, 2021, June 1, 2022, and  
19 June 1, 2023, the long-term renewable resources  
20 procurement plan may average the annual budgets over a  
21 3-year period to account for program ramp-up. For the  
22 delivery years beginning June 1, 2021, June 1, 2024, June  
23 1, 2027, and June 1, 2030 and additional \$10,000,000 shall  
24 be provided to the Department of Commerce and Economic  
25 Opportunity to implement the workforce development  
26 programs and reporting as outlined in Section 16-108.12 of

1 the Public Utilities Act. In making the determinations  
2 required under this subparagraph (O), the Commission shall  
3 consider the experience and performance under the programs  
4 and any evaluation reports. The Commission shall also  
5 provide for an independent evaluation of those programs on  
6 a periodic basis that are funded under this subparagraph  
7 (O).

8 (P) All programs and procurements under this  
9 subsection (c) shall be designed to encourage  
10 participating projects to use a diverse and equitable  
11 workforce and a diverse set of contractors, including  
12 minority-owned businesses, disadvantaged businesses,  
13 trade unions, graduates of any workforce training programs  
14 administered under this Act, and small businesses.

15 Notwithstanding any other provision of law, in all  
16 competitive procurements conducted by the Agency after the  
17 effective date of this amendatory Act of the 103rd General  
18 Assembly for procurement of renewable energy credits from  
19 utility-scale projects or brownfield site photovoltaic  
20 projects, or for procurement of energy storage resources,  
21 the Agency, in ranking the bids for evaluation and  
22 selection, shall apply the downward bid price adjustment  
23 described by the Agency in Section 5.4.3, as set forth in  
24 the first full paragraph on page 110, of its proposed 2024  
25 Long-Term Renewable Resources Procurement Plan filed on  
26 October 20, 2023 in Illinois Commerce Commission Docket

1       23-0714, to the bid submitted by any project:

2               (i) if a utility-scale or brownfield site  
3       photovoltaic project, all or part of which is  
4       located or proposed to be located (A) in a  
5       municipality, county, or other unit of local  
6       government that is or was eligible to apply for an  
7       Energy Transition Community grant pursuant to the  
8       Energy Transition Reinvestment Act or (B) is  
9       located within a 30 mile radius of the site of a  
10       fossil-fueled power plant or coal mine in this  
11       State that was retired subsequent to December 31,  
12       2015 or whose owner commits to retire by no later  
13       than December 31, 2030, and if an energy storage  
14       resources project, all or part of which is (C)  
15       located or proposed to be located in a  
16       municipality, county, or other unit of local  
17       government that is or was eligible to apply for an  
18       Energy Transition Community grant pursuant to  
19       Section 10-20 of the Energy Transition  
20       Reinvestment Act or (D) at the site of a  
21       fossil-fueled power plant or coal mine in this  
22       State that was retired subsequent to December 31,  
23       2015 or (D) whose owner commits to retire by no  
24       later than December 31, 2030.

25               (ii) located or proposed to be located in  
26       either an environmental justice community or an R3



1 community as those terms are defined the Illinois  
2 Power Agency Act, or in an equity investment  
3 eligible community as defined by the Agency  
4 pursuant to the Illinois Power Agency Act, or

5 (iii) located or proposed to be located at a  
6 site connecting to existing utility infrastructure  
7 at a switchyard located within the property  
8 boundaries of a fossil-fueled power plant in this  
9 State that was retired subsequent to December 31,  
10 2015 or whose owner commits to retire by no later  
11 than December 31, 2030, which project will be used  
12 to replace retired or to be retired fossil fuel  
13 power plant facilities at that property,  
14 regardless of the amount of generating capacity to  
15 be replaced, and which has completed the  
16 interconnection process with the applicable  
17 regional transmission organization or independent  
18 transmission system operator and has entered into  
19 an interconnection agreement for the project with  
20 the applicable regional transmission organization,  
21 and applicable transmission utility.

22 If a project for which a bid is submitted in a  
23 procurement event described in this paragraph meets more  
24 than one of criteria set forth above, the Agency shall  
25 apply the bid price adjustment two times in ranking and  
26 evaluating the bid submitted for the project. It is the

1 intent of the General Assembly in enacting this provision  
2 to (I) provide a preference for projects located or to be  
3 located in areas which the General Assembly hereby finds  
4 and concludes have experienced or will experience adverse  
5 economic and employment impacts due to closure of a  
6 fossil-fueled power plant or coal mine, which closures  
7 help to advance the State's decarbonization goals, and  
8 which preference will help to provide a just transition  
9 for the areas in which closed fossil power plants and coal  
10 mines are located, or that are proposed to be located in an  
11 equity investment eligible community, an environmental  
12 justice community, or an R3 community and (II) provide a  
13 preference for projects that are to be connected to  
14 existing utility infrastructure at switchyards of retired  
15 or to be retired fossil fuel power plants, and have  
16 completed the interconnection process and entered into  
17 applicable interconnection agreements thereby efficiently  
18 utilizing such existing infrastructure and presenting a  
19 greater likelihood of successful completion and operation,  
20 and at an earlier date, of the proposed project.

21 ~~The Agency shall develop a method to optimize~~  
22 ~~procurement of renewable energy credits from proposed~~  
23 ~~utility-scale projects that are located in communities~~  
24 ~~eligible to receive Energy Transition Community Grants~~  
25 ~~pursuant to Section 10-20 of the Energy Community~~  
26 ~~Reinvestment Act. If this requirement conflicts with other~~

~~provisions of law or the Agency determines that full compliance with the requirements of this subparagraph (P) would be unreasonably costly or administratively impractical, the Agency is to propose alternative approaches to achieve development of renewable energy resources in communities eligible to receive Energy Transition Community Grants pursuant to Section 10-20 of the Energy Community Reinvestment Act or seek an exemption from this requirement from the Commission.~~

(Q) Each facility listed in subitems (i) through (ix) of item (1) of this subparagraph (Q) for which a renewable energy credit delivery contract is signed after the effective date of this amendatory Act of the 102nd General Assembly is subject to the following requirements through the Agency's long-term renewable resources procurement plan:

(1) Each facility shall be subject to the prevailing wage requirements included in the Prevailing Wage Act. The Agency shall require verification that all construction performed on the facility by the renewable energy credit delivery contract holder, its contractors, or its subcontractors relating to construction of the facility is performed by construction employees receiving an amount for that work equal to or greater than the general prevailing rate, as that term is

1 defined in Section 3 of the Prevailing Wage Act. For  
2 purposes of this item (1), "house of worship" means  
3 property that is both (1) used exclusively by a  
4 religious society or body of persons as a place for  
5 religious exercise or religious worship and (2)  
6 recognized as exempt from taxation pursuant to Section  
7 15-40 of the Property Tax Code. This item (1) shall  
8 apply to any the following:

9 (i) all new utility-scale wind projects;

10 (ii) all new utility-scale photovoltaic  
11 projects;

12 (iii) all new brownfield photovoltaic  
13 projects;

14 (iv) all new photovoltaic community renewable  
15 energy facilities that qualify for item (iii) of  
16 subparagraph (K) of this paragraph (1);

17 (v) all new community driven community  
18 photovoltaic projects that qualify for item (v) of  
19 subparagraph (K) of this paragraph (1);

20 (vi) all new photovoltaic projects on public  
21 school land that qualify for item (iv) of  
22 subparagraph (K) of this paragraph (1);

23 (vii) all new photovoltaic distributed  
24 renewable energy generation devices that (1)  
25 qualify for item (i) of subparagraph (K) of this  
26 paragraph (1); (2) are not projects that serve

1 single-family or multi-family residential  
2 buildings; and (3) are not houses of worship where  
3 the aggregate capacity including collocated  
4 projects would not exceed 100 kilowatts;

5 (viii) all new photovoltaic distributed  
6 renewable energy generation devices that (1)  
7 qualify for item (ii) of subparagraph (K) of this  
8 paragraph (1); (2) are not projects that serve  
9 single-family or multi-family residential  
10 buildings; and (3) are not houses of worship where  
11 the aggregate capacity including collocated  
12 projects would not exceed 100 kilowatts;

13 (ix) all new, modernized, or retooled  
14 hydropower facilities.

15 (2) Renewable energy credits procured from new  
16 utility-scale wind projects, new utility-scale solar  
17 projects, and new brownfield solar projects pursuant  
18 to Agency procurement events occurring after the  
19 effective date of this amendatory Act of the 102nd  
20 General Assembly must be from facilities built by  
21 general contractors that must enter into a project  
22 labor agreement, as defined by this Act, prior to  
23 construction. The project labor agreement shall be  
24 filed with the Director in accordance with procedures  
25 established by the Agency through its long-term  
26 renewable resources procurement plan. Any information

1 submitted to the Agency in this item (2) shall be  
2 considered commercially sensitive information. At a  
3 minimum, the project labor agreement must provide the  
4 names, addresses, and occupations of the owner of the  
5 plant and the individuals representing the labor  
6 organization employees participating in the project  
7 labor agreement consistent with the Project Labor  
8 Agreements Act. The agreement must also specify the  
9 terms and conditions as defined by this Act.

10 (3) It is the intent of this Section to ensure that  
11 economic development occurs across Illinois  
12 communities, that emerging businesses may grow, and  
13 that there is improved access to the clean energy  
14 economy by persons who have greater economic burdens  
15 to success. The Agency shall take into consideration  
16 the unique cost of compliance of this subparagraph (Q)  
17 that might be borne by equity eligible contractors,  
18 shall include such costs when determining the price of  
19 renewable energy credits in the Adjustable Block  
20 program, and shall take such costs into consideration  
21 in a nondiscriminatory manner when comparing bids for  
22 competitive procurements. The Agency shall consider  
23 costs associated with compliance whether in the  
24 development, financing, or construction of projects.  
25 The Agency shall periodically review the assumptions  
26 in these costs and may adjust prices, in compliance

1 with subparagraph (M) of this paragraph (1).

2 (R) In its long-term renewable resources procurement  
3 plan, the Agency shall establish a self-direct renewable  
4 portfolio standard compliance program for eligible  
5 self-direct customers that purchase renewable energy  
6 credits from utility-scale wind and solar projects through  
7 long-term agreements for purchase of renewable energy  
8 credits as described in this Section. Such long-term  
9 agreements may include the purchase of energy or other  
10 products on a physical or financial basis and may involve  
11 an alternative retail electric supplier as defined in  
12 Section 16-102 of the Public Utilities Act. This program  
13 shall take effect in the delivery year commencing June 1,  
14 2023.

15 (1) For the purposes of this subparagraph:

16 "Eligible self-direct customer" means any retail  
17 customers of an electric utility that serves 3,000,000  
18 or more retail customers in the State and whose total  
19 highest 30-minute demand was more than 10,000  
20 kilowatts, or any retail customers of an electric  
21 utility that serves less than 3,000,000 retail  
22 customers but more than 500,000 retail customers in  
23 the State and whose total highest 15-minute demand was  
24 more than 10,000 kilowatts.

25 "Retail customer" has the meaning set forth in  
26 Section 16-102 of the Public Utilities Act and

1 multiple retail customer accounts under the same  
2 corporate parent may aggregate their account demands  
3 to meet the 10,000 kilowatt threshold. The criteria  
4 for determining whether this subparagraph is  
5 applicable to a retail customer shall be based on the  
6 12 consecutive billing periods prior to the start of  
7 the year in which the application is filed.

8 (2) For renewable energy credits to count toward  
9 the self-direct renewable portfolio standard  
10 compliance program, they must:

11 (i) qualify as renewable energy credits as  
12 defined in Section 1-10 of this Act;

13 (ii) be sourced from one or more renewable  
14 energy generating facilities that comply with the  
15 geographic requirements as set forth in  
16 subparagraph (I) of paragraph (1) of subsection  
17 (c) as interpreted through the Agency's long-term  
18 renewable resources procurement plan, or, where  
19 applicable, the geographic requirements that  
20 governed utility-scale renewable energy credits at  
21 the time the eligible self-direct customer entered  
22 into the applicable renewable energy credit  
23 purchase agreement;

24 (iii) be procured through long-term contracts  
25 with term lengths of at least 10 years either  
26 directly with the renewable energy generating



1 facility or through a bundled power purchase  
2 agreement, a virtual power purchase agreement, an  
3 agreement between the renewable generating  
4 facility, an alternative retail electric supplier,  
5 and the customer, or such other structure as is  
6 permissible under this subparagraph (R);

7 (iv) be equivalent in volume to at least 40%  
8 of the eligible self-direct customer's usage,  
9 determined annually by the eligible self-direct  
10 customer's usage during the previous delivery  
11 year, measured to the nearest megawatt-hour;

12 (v) be retired by or on behalf of the large  
13 energy customer;

14 (vi) be sourced from new utility-scale wind  
15 projects or new utility-scale solar projects; and

16 (vii) if the contracts for renewable energy  
17 credits are entered into after the effective date  
18 of this amendatory Act of the 102nd General  
19 Assembly, the new utility-scale wind projects or  
20 new utility-scale solar projects must comply with  
21 the requirements established in subparagraphs (P)  
22 and (Q) of paragraph (1) of this subsection (c)  
23 and subsection (c-10).

24 (3) The self-direct renewable portfolio standard  
25 compliance program shall be designed to allow eligible  
26 self-direct customers to procure new renewable energy

1 credits from new utility-scale wind projects or new  
2 utility-scale photovoltaic projects. The Agency shall  
3 annually determine the amount of utility-scale  
4 renewable energy credits it will include each year  
5 from the self-direct renewable portfolio standard  
6 compliance program, subject to receiving qualifying  
7 applications. In making this determination, the Agency  
8 shall evaluate publicly available analyses and studies  
9 of the potential market size for utility-scale  
10 renewable energy long-term purchase agreements by  
11 commercial and industrial energy customers and make  
12 that report publicly available. If demand for  
13 participation in the self-direct renewable portfolio  
14 standard compliance program exceeds availability, the  
15 Agency shall ensure participation is evenly split  
16 between commercial and industrial users to the extent  
17 there is sufficient demand from both customer classes.  
18 Each renewable energy credit procured pursuant to this  
19 subparagraph (R) by a self-direct customer shall  
20 reduce the total volume of renewable energy credits  
21 the Agency is otherwise required to procure from new  
22 utility-scale projects pursuant to subparagraph (C) of  
23 paragraph (1) of this subsection (c) on behalf of  
24 contracting utilities where the eligible self-direct  
25 customer is located. The self-direct customer shall  
26 file an annual compliance report with the Agency

1           pursuant to terms established by the Agency through  
2           its long-term renewable resources procurement plan to  
3           be eligible for participation in this program.  
4           Customers must provide the Agency with their most  
5           recent electricity billing statements or other  
6           information deemed necessary by the Agency to  
7           demonstrate they are an eligible self-direct customer.

8           (4) The Commission shall approve a reduction in  
9           the volumetric charges collected pursuant to Section  
10          16-108 of the Public Utilities Act for approved  
11          eligible self-direct customers equivalent to the  
12          anticipated cost of renewable energy credit deliveries  
13          under contracts for new utility-scale wind and new  
14          utility-scale solar entered for each delivery year  
15          after the large energy customer begins retiring  
16          eligible new utility scale renewable energy credits  
17          for self-compliance. The self-direct credit amount  
18          shall be determined annually and is equal to the  
19          estimated portion of the cost authorized by  
20          subparagraph (E) of paragraph (1) of this subsection  
21          (c) that supported the annual procurement of  
22          utility-scale renewable energy credits in the prior  
23          delivery year using a methodology described in the  
24          long-term renewable resources procurement plan,  
25          expressed on a per kilowatthour basis, and does not  
26          include (i) costs associated with any contracts

1 entered into before the delivery year in which the  
2 customer files the initial compliance report to be  
3 eligible for participation in the self-direct program,  
4 and (ii) costs associated with procuring renewable  
5 energy credits through existing and future contracts  
6 through the Adjustable Block Program, subsection (c-5)  
7 of this Section 1-75, and the Solar for All Program.  
8 The Agency shall assist the Commission in determining  
9 the current and future costs. The Agency must  
10 determine the self-direct credit amount for new and  
11 existing eligible self-direct customers and submit  
12 this to the Commission in an annual compliance filing.  
13 The Commission must approve the self-direct credit  
14 amount by June 1, 2023 and June 1 of each delivery year  
15 thereafter.

16 (5) Customers described in this subparagraph (R)  
17 shall apply, on a form developed by the Agency, to the  
18 Agency to be designated as a self-direct eligible  
19 customer. Once the Agency determines that a  
20 self-direct customer is eligible for participation in  
21 the program, the self-direct customer will remain  
22 eligible until the end of the term of the contract.  
23 Thereafter, application may be made not less than 12  
24 months before the filing date of the long-term  
25 renewable resources procurement plan described in this  
26 Act. At a minimum, such application shall contain the

1 following:

2 (i) the customer's certification that, at the  
3 time of the customer's application, the customer  
4 qualifies to be a self-direct eligible customer,  
5 including documents demonstrating that  
6 qualification;

7 (ii) the customer's certification that the  
8 customer has entered into or will enter into by  
9 the beginning of the applicable procurement year,  
10 one or more bilateral contracts for new wind  
11 projects or new photovoltaic projects, including  
12 supporting documentation;

13 (iii) certification that the contract or  
14 contracts for new renewable energy resources are  
15 long-term contracts with term lengths of at least  
16 10 years, including supporting documentation;

17 (iv) certification of the quantities of  
18 renewable energy credits that the customer will  
19 purchase each year under such contract or  
20 contracts, including supporting documentation;

21 (v) proof that the contract is sufficient to  
22 produce renewable energy credits to be equivalent  
23 in volume to at least 40% of the large energy  
24 customer's usage from the previous delivery year,  
25 measured to the nearest megawatt-hour; and

26 (vi) certification that the customer intends

1 to maintain the contract for the duration of the  
2 length of the contract.

3 (6) If a customer receives the self-direct credit  
4 but fails to properly procure and retire renewable  
5 energy credits as required under this subparagraph  
6 (R), the Commission, on petition from the Agency and  
7 after notice and hearing, may direct such customer's  
8 utility to recover the cost of the wrongfully received  
9 self-direct credits plus interest through an adder to  
10 charges assessed pursuant to Section 16-108 of the  
11 Public Utilities Act. Self-direct customers who  
12 knowingly fail to properly procure and retire  
13 renewable energy credits and do not notify the Agency  
14 are ineligible for continued participation in the  
15 self-direct renewable portfolio standard compliance  
16 program.

17 (2) (Blank).

18 (3) (Blank).

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

21 (5) Beginning with the 2010 delivery year and ending  
22 June 1, 2017, an electric utility subject to this  
23 subsection (c) shall apply the lesser of the maximum  
24 alternative compliance payment rate or the most recent  
25 estimated alternative compliance payment rate for its  
26 service territory for the corresponding compliance period,

1 established pursuant to subsection (d) of Section 16-115D  
2 of the Public Utilities Act to its retail customers that  
3 take service pursuant to the electric utility's hourly  
4 pricing tariff or tariffs. The electric utility shall  
5 retain all amounts collected as a result of the  
6 application of the alternative compliance payment rate or  
7 rates to such customers, and, beginning in 2011, the  
8 utility shall include in the information provided under  
9 item (1) of subsection (d) of Section 16-111.5 of the  
10 Public Utilities Act the amounts collected under the  
11 alternative compliance payment rate or rates for the prior  
12 year ending May 31. Notwithstanding any limitation on the  
13 procurement of renewable energy resources imposed by item  
14 (2) of this subsection (c), the Agency shall increase its  
15 spending on the purchase of renewable energy resources to  
16 be procured by the electric utility for the next plan year  
17 by an amount equal to the amounts collected by the utility  
18 under the alternative compliance payment rate or rates in  
19 the prior year ending May 31.

20 (6) The electric utility shall be entitled to recover  
21 all of its costs associated with the procurement of  
22 renewable energy credits under plans approved under this  
23 Section and Section 16-111.5 of the Public Utilities Act.  
24 These costs shall include associated reasonable expenses  
25 for implementing the procurement programs, including, but  
26 not limited to, the costs of administering and evaluating

1 the Adjustable Block program, through an automatic  
2 adjustment clause tariff in accordance with subsection (k)  
3 of Section 16-108 of the Public Utilities Act.

4 (7) Renewable energy credits procured from new  
5 photovoltaic projects or new distributed renewable energy  
6 generation devices under this Section after June 1, 2017  
7 (the effective date of Public Act 99-906) must be procured  
8 from devices installed by a qualified person in compliance  
9 with the requirements of Section 16-128A of the Public  
10 Utilities Act and any rules or regulations adopted  
11 thereunder.

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

22 (c-5) Procurement of renewable energy credits from new  
23 renewable energy facilities installed at or adjacent to the  
24 sites of electric generating facilities that burn or burned  
25 coal as their primary fuel source.

26 (1) In addition to the procurement of renewable energy



1 credits pursuant to long-term renewable resources  
2 procurement plans in accordance with subsection (c) of  
3 this Section and Section 16-111.5 of the Public Utilities  
4 Act, the Agency shall conduct procurement events in  
5 accordance with this subsection (c-5) for the procurement  
6 by electric utilities that served more than 300,000 retail  
7 customers in this State as of January 1, 2019 of renewable  
8 energy credits from new renewable energy facilities to be  
9 installed at or adjacent to the sites of electric  
10 generating facilities that, as of January 1, 2016, burned  
11 coal as their primary fuel source and meet the other  
12 criteria specified in this subsection (c-5). For purposes  
13 of this subsection (c-5), "new renewable energy facility"  
14 means a new utility-scale solar project as defined in this  
15 Section 1-75. The renewable energy credits procured  
16 pursuant to this subsection (c-5) may be included or  
17 counted for purposes of compliance with the amounts of  
18 renewable energy credits required to be procured pursuant  
19 to subsection (c) of this Section to the extent that there  
20 are otherwise shortfalls in compliance with such  
21 requirements. The procurement of renewable energy credits  
22 by electric utilities pursuant to this subsection (c-5)  
23 shall be funded solely by revenues collected from the Coal  
24 to Solar and Energy Storage Initiative Charge provided for  
25 in this subsection (c-5) and subsection (i-5) of Section  
26 16-108 of the Public Utilities Act, shall not be funded by

1 revenues collected through any of the other funding  
2 mechanisms provided for in subsection (c) of this Section,  
3 and shall not be subject to the limitation imposed by  
4 subsection (c) on charges to retail customers for costs to  
5 procure renewable energy resources pursuant to subsection  
6 (c), and shall not be subject to any other requirements or  
7 limitations of subsection (c).

8 (2) The Agency shall conduct 2 procurement events to  
9 select owners of electric generating facilities meeting  
10 the eligibility criteria specified in this subsection  
11 (c-5) to enter into long-term contracts to sell renewable  
12 energy credits to electric utilities serving more than  
13 300,000 retail customers in this State as of January 1,  
14 2019. The first procurement event shall be conducted no  
15 later than March 31, 2022, unless the Agency elects to  
16 delay it, until no later than May 1, 2022, due to its  
17 overall volume of work, and shall be to select owners of  
18 electric generating facilities located in this State and  
19 south of federal Interstate Highway 80 that meet the  
20 eligibility criteria specified in this subsection (c-5).  
21 The second procurement event shall be conducted no sooner  
22 than September 30, 2022 and no later than October 31, 2022  
23 and shall be to select owners of electric generating  
24 facilities located anywhere in this State that meet the  
25 eligibility criteria specified in this subsection (c-5).  
26 The Agency shall establish and announce a time period,

1           which shall begin no later than 30 days prior to the  
2           scheduled date for the procurement event, during which  
3           applicants may submit applications to be selected as  
4           suppliers of renewable energy credits pursuant to this  
5           subsection (c-5). The eligibility criteria for selection  
6           as a supplier of renewable energy credits pursuant to this  
7           subsection (c-5) shall be as follows:

8                   (A) The applicant owns an electric generating  
9                   facility located in this State that: (i) as of January  
10                   1, 2016, burned coal as its primary fuel to generate  
11                   electricity; and (ii) has, or had prior to retirement,  
12                   an electric generating capacity of at least 150  
13                   megawatts. The electric generating facility can be  
14                   either: (i) retired as of the date of the procurement  
15                   event; or (ii) still operating as of the date of the  
16                   procurement event.

17                   (B) The applicant is not (i) an electric  
18                   cooperative as defined in Section 3-119 of the Public  
19                   Utilities Act, or (ii) an entity described in  
20                   subsection (b)(1) of Section 3-105 of the Public  
21                   Utilities Act, or an association or consortium of or  
22                   an entity owned by entities described in (i) or (ii);  
23                   and the coal-fueled electric generating facility was  
24                   at one time owned, in whole or in part, by a public  
25                   utility as defined in Section 3-105 of the Public  
26                   Utilities Act.

1 (C) If participating in the first procurement  
2 event, the applicant proposes and commits to construct  
3 and operate, at the site, and if necessary for  
4 sufficient space on property adjacent to the existing  
5 property, at which the electric generating facility  
6 identified in paragraph (A) is located: (i) a new  
7 renewable energy facility of at least 20 megawatts but  
8 no more than 100 megawatts of electric generating  
9 capacity, and (ii) an energy storage facility having a  
10 storage capacity equal to at least 2 megawatts and at  
11 most 10 megawatts. If participating in the second  
12 procurement event, the applicant proposes and commits  
13 to construct and operate, at the site, and if  
14 necessary for sufficient space on property adjacent to  
15 the existing property, at which the electric  
16 generating facility identified in paragraph (A) is  
17 located: (i) a new renewable energy facility of at  
18 least 5 megawatts but no more than 20 megawatts of  
19 electric generating capacity, and (ii) an energy  
20 storage facility having a storage capacity equal to at  
21 least 0.5 megawatts and at most one megawatt.

22 (D) The applicant agrees that the new renewable  
23 energy facility and the energy storage facility will  
24 be constructed or installed by a qualified entity or  
25 entities in compliance with the requirements of  
26 subsection (g) of Section 16-128A of the Public

1 Utilities Act and any rules adopted thereunder.

2 (E) The applicant agrees that personnel operating  
3 the new renewable energy facility and the energy  
4 storage facility will have the requisite skills,  
5 knowledge, training, experience, and competence, which  
6 may be demonstrated by completion or current  
7 participation and ultimate completion by employees of  
8 an accredited or otherwise recognized apprenticeship  
9 program for the employee's particular craft, trade, or  
10 skill, including through training and education  
11 courses and opportunities offered by the owner to  
12 employees of the coal-fueled electric generating  
13 facility or by previous employment experience  
14 performing the employee's particular work skill or  
15 function.

16 (F) The applicant commits that not less than the  
17 prevailing wage, as determined pursuant to the  
18 Prevailing Wage Act, will be paid to the applicant's  
19 employees engaged in construction activities  
20 associated with the new renewable energy facility and  
21 the new energy storage facility and to the employees  
22 of applicant's contractors engaged in construction  
23 activities associated with the new renewable energy  
24 facility and the new energy storage facility, and  
25 that, on or before the commercial operation date of  
26 the new renewable energy facility, the applicant shall

1 file a report with the Agency certifying that the  
2 requirements of this subparagraph (F) have been met.

3 (G) The applicant commits that if selected, it  
4 will negotiate a project labor agreement for the  
5 construction of the new renewable energy facility and  
6 associated energy storage facility that includes  
7 provisions requiring the parties to the agreement to  
8 work together to establish diversity threshold  
9 requirements and to ensure best efforts to meet  
10 diversity targets, improve diversity at the applicable  
11 job site, create diverse apprenticeship opportunities,  
12 and create opportunities to employ former coal-fired  
13 power plant workers.

14 (H) The applicant commits to enter into a contract  
15 or contracts for the applicable duration to provide  
16 specified numbers of renewable energy credits each  
17 year from the new renewable energy facility to  
18 electric utilities that served more than 300,000  
19 retail customers in this State as of January 1, 2019,  
20 at a price of \$30 per renewable energy credit. The  
21 price per renewable energy credit shall be fixed at  
22 \$30 for the applicable duration and the renewable  
23 energy credits shall not be indexed renewable energy  
24 credits as provided for in item (v) of subparagraph  
25 (G) of paragraph (1) of subsection (c) of Section 1-75  
26 of this Act. The applicable duration of each contract

1 shall be 20 years, unless the applicant is physically  
2 interconnected to the PJM Interconnection, LLC  
3 transmission grid and had a generating capacity of at  
4 least 1,200 megawatts as of January 1, 2021, in which  
5 case the applicable duration of the contract shall be  
6 15 years.

7 (I) The applicant's application is certified by an  
8 officer of the applicant and by an officer of the  
9 applicant's ultimate parent company, if any.

10 (3) An applicant may submit applications to contract  
11 to supply renewable energy credits from more than one new  
12 renewable energy facility to be constructed at or adjacent  
13 to one or more qualifying electric generating facilities  
14 owned by the applicant. The Agency may select new  
15 renewable energy facilities to be located at or adjacent  
16 to the sites of more than one qualifying electric  
17 generation facility owned by an applicant to contract with  
18 electric utilities to supply renewable energy credits from  
19 such facilities.

20 (4) The Agency shall assess fees to each applicant to  
21 recover the Agency's costs incurred in receiving and  
22 evaluating applications, conducting the procurement event,  
23 developing contracts for sale, delivery and purchase of  
24 renewable energy credits, and monitoring the  
25 administration of such contracts, as provided for in this  
26 subsection (c-5), including fees paid to a procurement

1 administrator retained by the Agency for one or more of  
2 these purposes.

3 (5) The Agency shall select the applicants and the new  
4 renewable energy facilities to contract with electric  
5 utilities to supply renewable energy credits in accordance  
6 with this subsection (c-5). In the first procurement  
7 event, the Agency shall select applicants and new  
8 renewable energy facilities to supply renewable energy  
9 credits, at a price of \$30 per renewable energy credit,  
10 aggregating to no less than 400,000 renewable energy  
11 credits per year for the applicable duration, assuming  
12 sufficient qualifying applications to supply, in the  
13 aggregate, at least that amount of renewable energy  
14 credits per year; and not more than 580,000 renewable  
15 energy credits per year for the applicable duration. In  
16 the second procurement event, the Agency shall select  
17 applicants and new renewable energy facilities to supply  
18 renewable energy credits, at a price of \$30 per renewable  
19 energy credit, aggregating to no more than 625,000  
20 renewable energy credits per year less the amount of  
21 renewable energy credits each year contracted for as a  
22 result of the first procurement event, for the applicable  
23 durations. The number of renewable energy credits to be  
24 procured as specified in this paragraph (5) shall not be  
25 reduced based on renewable energy credits procured in the  
26 self-direct renewable energy credit compliance program



1 established pursuant to subparagraph (R) of paragraph (1)  
2 of subsection (c) of Section 1-75.

3 (6) The obligation to purchase renewable energy  
4 credits from the applicants and their new renewable energy  
5 facilities selected by the Agency shall be allocated to  
6 the electric utilities based on their respective  
7 percentages of kilowatthours delivered to delivery  
8 services customers to the aggregate kilowatthour  
9 deliveries by the electric utilities to delivery services  
10 customers for the year ended December 31, 2021. In order  
11 to achieve these allocation percentages between or among  
12 the electric utilities, the Agency shall require each  
13 applicant that is selected in the procurement event to  
14 enter into a contract with each electric utility for the  
15 sale and purchase of renewable energy credits from each  
16 new renewable energy facility to be constructed and  
17 operated by the applicant, with the sale and purchase  
18 obligations under the contracts to aggregate to the total  
19 number of renewable energy credits per year to be supplied  
20 by the applicant from the new renewable energy facility.

21 (7) The Agency shall submit its proposed selection of  
22 applicants, new renewable energy facilities to be  
23 constructed, and renewable energy credit amounts for each  
24 procurement event to the Commission for approval. The  
25 Commission shall, within 2 business days after receipt of  
26 the Agency's proposed selections, approve the proposed

1 selections if it determines that the applicants and the  
2 new renewable energy facilities to be constructed meet the  
3 selection criteria set forth in this subsection (c-5) and  
4 that the Agency seeks approval for contracts of applicable  
5 durations aggregating to no more than the maximum amount  
6 of renewable energy credits per year authorized by this  
7 subsection (c-5) for the procurement event, at a price of  
8 \$30 per renewable energy credit.

9 (8) The Agency, in conjunction with its procurement  
10 administrator if one is retained, the electric utilities,  
11 and potential applicants for contracts to produce and  
12 supply renewable energy credits pursuant to this  
13 subsection (c-5), shall develop a standard form contract  
14 for the sale, delivery and purchase of renewable energy  
15 credits pursuant to this subsection (c-5). Each contract  
16 resulting from the first procurement event shall allow for  
17 a commercial operation date for the new renewable energy  
18 facility of either June 1, 2023 or June 1, 2024, with such  
19 dates subject to adjustment as provided in this paragraph.  
20 Each contract resulting from the second procurement event  
21 shall provide for a commercial operation date on June 1  
22 next occurring up to 48 months after execution of the  
23 contract. Each contract shall provide that the owner shall  
24 receive payments for renewable energy credits for the  
25 applicable durations beginning with the commercial  
26 operation date of the new renewable energy facility. The

1 form contract shall provide for adjustments to the  
2 commercial operation and payment start dates as needed due  
3 to any delays in completing the procurement and  
4 contracting processes, in finalizing interconnection  
5 agreements and installing interconnection facilities, and  
6 in obtaining other necessary governmental permits and  
7 approvals. The form contract shall be, to the maximum  
8 extent possible, consistent with standard electric  
9 industry contracts for sale, delivery, and purchase of  
10 renewable energy credits while taking into account the  
11 specific requirements of this subsection (c-5). The form  
12 contract shall provide for over-delivery and  
13 under-delivery of renewable energy credits within  
14 reasonable ranges during each 12-month period and penalty,  
15 default, and enforcement provisions for failure of the  
16 selling party to deliver renewable energy credits as  
17 specified in the contract and to comply with the  
18 requirements of this subsection (c-5). The standard form  
19 contract shall specify that all renewable energy credits  
20 delivered to the electric utility pursuant to the contract  
21 shall be retired. The Agency shall make the proposed  
22 contracts available for a reasonable period for comment by  
23 potential applicants, and shall publish the final form  
24 contract at least 30 days before the date of the first  
25 procurement event.

26 (9) Coal to Solar and Energy Storage Initiative

1 Charge.

2 (A) By no later than July 1, 2022, each electric  
3 utility that served more than 300,000 retail customers  
4 in this State as of January 1, 2019 shall file a tariff  
5 with the Commission for the billing and collection of  
6 a Coal to Solar and Energy Storage Initiative Charge  
7 in accordance with subsection (i-5) of Section 16-108  
8 of the Public Utilities Act, with such tariff to be  
9 effective, following review and approval or  
10 modification by the Commission, beginning January 1,  
11 2023. The tariff shall provide for the calculation and  
12 setting of the electric utility's Coal to Solar and  
13 Energy Storage Initiative Charge to collect revenues  
14 estimated to be sufficient, in the aggregate, (i) to  
15 enable the electric utility to pay for the renewable  
16 energy credits it has contracted to purchase in the  
17 delivery year beginning June 1, 2023 and each delivery  
18 year thereafter from new renewable energy facilities  
19 located at the sites of qualifying electric generating  
20 facilities, and (ii) to fund the grant payments to be  
21 made in each delivery year by the Department of  
22 Commerce and Economic Opportunity, or any successor  
23 department or agency, which shall be referred to in  
24 this subsection (c-5) as the Department, pursuant to  
25 paragraph (10) of this subsection (c-5). The electric  
26 utility's tariff shall provide for the billing and

1 collection of the Coal to Solar and Energy Storage  
2 Initiative Charge on each kilowatthour of electricity  
3 delivered to its delivery services customers within  
4 its service territory and shall provide for an annual  
5 reconciliation of revenues collected with actual  
6 costs, in accordance with subsection (i-5) of Section  
7 16-108 of the Public Utilities Act.

8 (B) Each electric utility shall remit on a monthly  
9 basis to the State Treasurer, for deposit in the Coal  
10 to Solar and Energy Storage Initiative Fund provided  
11 for in this subsection (c-5), the electric utility's  
12 collections of the Coal to Solar and Energy Storage  
13 Initiative Charge in the amount estimated to be needed  
14 by the Department for grant payments pursuant to grant  
15 contracts entered into by the Department pursuant to  
16 paragraph (10) of this subsection (c-5).

17 (10) Coal to Solar and Energy Storage Initiative Fund.

18 (A) The Coal to Solar and Energy Storage  
19 Initiative Fund is established as a special fund in  
20 the State treasury. The Coal to Solar and Energy  
21 Storage Initiative Fund is authorized to receive, by  
22 statutory deposit, that portion specified in item (B)  
23 of paragraph (9) of this subsection (c-5) of moneys  
24 collected by electric utilities through imposition of  
25 the Coal to Solar and Energy Storage Initiative Charge  
26 required by this subsection (c-5). The Coal to Solar

1 and Energy Storage Initiative Fund shall be  
2 administered by the Department to provide grants to  
3 support the installation and operation of energy  
4 storage facilities at the sites of qualifying electric  
5 generating facilities meeting the criteria specified  
6 in this paragraph (10).

7 (B) The Coal to Solar and Energy Storage  
8 Initiative Fund shall not be subject to sweeps,  
9 administrative charges, or chargebacks, including, but  
10 not limited to, those authorized under Section 8h of  
11 the State Finance Act, that would in any way result in  
12 the transfer of those funds from the Coal to Solar and  
13 Energy Storage Initiative Fund to any other fund of  
14 this State or in having any such funds utilized for any  
15 purpose other than the express purposes set forth in  
16 this paragraph (10).

17 (C) The Department shall utilize up to  
18 \$280,500,000 in the Coal to Solar and Energy Storage  
19 Initiative Fund for grants, assuming sufficient  
20 qualifying applicants, to support installation of  
21 energy storage facilities at the sites of up to 3  
22 qualifying electric generating facilities located in  
23 the Midcontinent Independent System Operator, Inc.,  
24 region in Illinois and the sites of up to 2 qualifying  
25 electric generating facilities located in the PJM  
26 Interconnection, LLC region in Illinois that meet the

1 criteria set forth in this subparagraph (C). The  
2 criteria for receipt of a grant pursuant to this  
3 subparagraph (C) are as follows:

4 (1) the electric generating facility at the  
5 site has, or had prior to retirement, an electric  
6 generating capacity of at least 150 megawatts;

7 (2) the electric generating facility burns (or  
8 burned prior to retirement) coal as its primary  
9 source of fuel;

10 (3) if the electric generating facility is  
11 retired, it was retired subsequent to January 1,  
12 2016;

13 (4) the owner of the electric generating  
14 facility has not been selected by the Agency  
15 pursuant to this subsection (c-5) of this Section  
16 to enter into a contract to sell renewable energy  
17 credits to one or more electric utilities from a  
18 new renewable energy facility located or to be  
19 located at or adjacent to the site at which the  
20 electric generating facility is located;

21 (5) the electric generating facility located  
22 at the site was at one time owned, in whole or in  
23 part, by a public utility as defined in Section  
24 3-105 of the Public Utilities Act;

25 (6) the electric generating facility at the  
26 site is not owned by (i) an electric cooperative

1 as defined in Section 3-119 of the Public  
2 Utilities Act, or (ii) an entity described in  
3 subsection (b)(1) of Section 3-105 of the Public  
4 Utilities Act, or an association or consortium of  
5 or an entity owned by entities described in items  
6 (i) or (ii);

7 (7) the proposed energy storage facility at  
8 the site will have energy storage capacity of at  
9 least 37 megawatts;

10 (8) the owner commits to place the energy  
11 storage facility into commercial operation on  
12 either June 1, 2023, June 1, 2024, or June 1, 2025,  
13 with such date subject to adjustment as needed due  
14 to any delays in completing the grant contracting  
15 process, in finalizing interconnection agreements  
16 and in installing interconnection facilities, and  
17 in obtaining necessary governmental permits and  
18 approvals;

19 (9) the owner agrees that the new energy  
20 storage facility will be constructed or installed  
21 by a qualified entity or entities consistent with  
22 the requirements of subsection (g) of Section  
23 16-128A of the Public Utilities Act and any rules  
24 adopted under that Section;

25 (10) the owner agrees that personnel operating  
26 the energy storage facility will have the



1 requisite skills, knowledge, training, experience,  
2 and competence, which may be demonstrated by  
3 completion or current participation and ultimate  
4 completion by employees of an accredited or  
5 otherwise recognized apprenticeship program for  
6 the employee's particular craft, trade, or skill,  
7 including through training and education courses  
8 and opportunities offered by the owner to  
9 employees of the coal-fueled electric generating  
10 facility or by previous employment experience  
11 performing the employee's particular work skill or  
12 function;

13 (11) the owner commits that not less than the  
14 prevailing wage, as determined pursuant to the  
15 Prevailing Wage Act, will be paid to the owner's  
16 employees engaged in construction activities  
17 associated with the new energy storage facility  
18 and to the employees of the owner's contractors  
19 engaged in construction activities associated with  
20 the new energy storage facility, and that, on or  
21 before the commercial operation date of the new  
22 energy storage facility, the owner shall file a  
23 report with the Department certifying that the  
24 requirements of this subparagraph (11) have been  
25 met; and

26 (12) the owner commits that if selected to

1 receive a grant, it will negotiate a project labor  
2 agreement for the construction of the new energy  
3 storage facility that includes provisions  
4 requiring the parties to the agreement to work  
5 together to establish diversity threshold  
6 requirements and to ensure best efforts to meet  
7 diversity targets, improve diversity at the  
8 applicable job site, create diverse apprenticeship  
9 opportunities, and create opportunities to employ  
10 former coal-fired power plant workers.

11 The Department shall accept applications for this  
12 grant program until March 31, 2022 and shall announce  
13 the award of grants no later than June 1, 2022. The  
14 Department shall make the grant payments to a  
15 recipient in equal annual amounts for 10 years  
16 following the date the energy storage facility is  
17 placed into commercial operation. The annual grant  
18 payments to a qualifying energy storage facility shall  
19 be \$110,000 per megawatt of energy storage capacity,  
20 with total annual grant payments pursuant to this  
21 subparagraph (C) for qualifying energy storage  
22 facilities not to exceed \$28,050,000 in any year.

23 (D) Grants of funding for energy storage  
24 facilities pursuant to subparagraph (C) of this  
25 paragraph (10), from the Coal to Solar and Energy  
26 Storage Initiative Fund, shall be memorialized in

1 grant contracts between the Department and the  
2 recipient. The grant contracts shall specify the date  
3 or dates in each year on which the annual grant  
4 payments shall be paid.

5 (E) All disbursements from the Coal to Solar and  
6 Energy Storage Initiative Fund shall be made only upon  
7 warrants of the Comptroller drawn upon the Treasurer  
8 as custodian of the Fund upon vouchers signed by the  
9 Director of the Department or by the person or persons  
10 designated by the Director of the Department for that  
11 purpose. The Comptroller is authorized to draw the  
12 warrants upon vouchers so signed. The Treasurer shall  
13 accept all written warrants so signed and shall be  
14 released from liability for all payments made on those  
15 warrants.

16 (11) Diversity, equity, and inclusion plans.

17 (A) Each applicant selected in a procurement event  
18 to contract to supply renewable energy credits in  
19 accordance with this subsection (c-5) and each owner  
20 selected by the Department to receive a grant or  
21 grants to support the construction and operation of a  
22 new energy storage facility or facilities in  
23 accordance with this subsection (c-5) shall, within 60  
24 days following the Commission's approval of the  
25 applicant to contract to supply renewable energy  
26 credits or within 60 days following execution of a

1 grant contract with the Department, as applicable,  
2 submit to the Commission a diversity, equity, and  
3 inclusion plan setting forth the applicant's or  
4 owner's numeric goals for the diversity composition of  
5 its supplier entities for the new renewable energy  
6 facility or new energy storage facility, as  
7 applicable, which shall be referred to for purposes of  
8 this paragraph (11) as the project, and the  
9 applicant's or owner's action plan and schedule for  
10 achieving those goals.

11 (B) For purposes of this paragraph (11), diversity  
12 composition shall be based on the percentage, which  
13 shall be a minimum of 25%, of eligible expenditures  
14 for contract awards for materials and services (which  
15 shall be defined in the plan) to business enterprises  
16 owned by minority persons, women, or persons with  
17 disabilities as defined in Section 2 of the Business  
18 Enterprise for Minorities, Women, and Persons with  
19 Disabilities Act, to LGBTQ business enterprises, to  
20 veteran-owned business enterprises, and to business  
21 enterprises located in environmental justice  
22 communities. The diversity composition goals of the  
23 plan may include eligible expenditures in areas for  
24 vendor or supplier opportunities in addition to  
25 development and construction of the project, and may  
26 exclude from eligible expenditures materials and

1 services with limited market availability, limited  
2 production and availability from suppliers in the  
3 United States, such as solar panels and storage  
4 batteries, and material and services that are subject  
5 to critical energy infrastructure or cybersecurity  
6 requirements or restrictions. The plan may provide  
7 that the diversity composition goals may be met  
8 through Tier 1 Direct or Tier 2 subcontracting  
9 expenditures or a combination thereof for the project.

10 (C) The plan shall provide for, but not be limited  
11 to: (i) internal initiatives, including multi-tier  
12 initiatives, by the applicant or owner, or by its  
13 engineering, procurement and construction contractor  
14 if one is used for the project, which for purposes of  
15 this paragraph (11) shall be referred to as the EPC  
16 contractor, to enable diverse businesses to be  
17 considered fairly for selection to provide materials  
18 and services; (ii) requirements for the applicant or  
19 owner or its EPC contractor to proactively solicit and  
20 utilize diverse businesses to provide materials and  
21 services; and (iii) requirements for the applicant or  
22 owner or its EPC contractor to hire a diverse  
23 workforce for the project. The plan shall include a  
24 description of the applicant's or owner's diversity  
25 recruiting efforts both for the project and for other  
26 areas of the applicant's or owner's business

1 operations. The plan shall provide for the imposition  
2 of financial penalties on the applicant's or owner's  
3 EPC contractor for failure to exercise best efforts to  
4 comply with and execute the EPC contractor's diversity  
5 obligations under the plan. The plan may provide for  
6 the applicant or owner to set aside a portion of the  
7 work on the project to serve as an incubation program  
8 for qualified businesses, as specified in the plan,  
9 owned by minority persons, women, persons with  
10 disabilities, LGBTQ persons, and veterans, and  
11 businesses located in environmental justice  
12 communities, seeking to enter the renewable energy  
13 industry.

14 (D) The applicant or owner may submit a revised or  
15 updated plan to the Commission from time to time as  
16 circumstances warrant. The applicant or owner shall  
17 file annual reports with the Commission detailing the  
18 applicant's or owner's progress in implementing its  
19 plan and achieving its goals and any modifications the  
20 applicant or owner has made to its plan to better  
21 achieve its diversity, equity and inclusion goals. The  
22 applicant or owner shall file a final report on the  
23 fifth June 1 following the commercial operation date  
24 of the new renewable energy resource or new energy  
25 storage facility, but the applicant or owner shall  
26 thereafter continue to be subject to applicable

1 reporting requirements of Section 5-117 of the Public  
2 Utilities Act.

3 (c-10) Equity accountability system. It is the purpose of  
4 this subsection (c-10) to create an equity accountability  
5 system, which includes the minimum equity standards for all  
6 renewable energy procurements, the equity category of the  
7 Adjustable Block Program, and the equity prioritization for  
8 noncompetitive procurements, that is successful in advancing  
9 priority access to the clean energy economy for businesses and  
10 workers from communities that have been excluded from economic  
11 opportunities in the energy sector, have been subject to  
12 disproportionate levels of pollution, and have  
13 disproportionately experienced negative public health  
14 outcomes. Further, it is the purpose of this subsection to  
15 ensure that this equity accountability system is successful in  
16 advancing equity across Illinois by providing access to the  
17 clean energy economy for businesses and workers from  
18 communities that have been historically excluded from economic  
19 opportunities in the energy sector, have been subject to  
20 disproportionate levels of pollution, and have  
21 disproportionately experienced negative public health  
22 outcomes.

23 (1) Minimum equity standards. The Agency shall create  
24 programs with the purpose of increasing access to and  
25 development of equity eligible contractors, who are prime  
26 contractors and subcontractors, across all of the programs

1           it manages. All applications for renewable energy credit  
2           procurements shall comply with specific minimum equity  
3           commitments. Starting in the delivery year immediately  
4           following the next long-term renewable resources  
5           procurement plan, at least 10% of the project workforce  
6           for each entity participating in a procurement program  
7           outlined in this subsection (c-10) must be done by equity  
8           eligible persons or equity eligible contractors. The  
9           Agency shall increase the minimum percentage each delivery  
10          year thereafter by increments that ensure a statewide  
11          average of 30% of the project workforce for each entity  
12          participating in a procurement program is done by equity  
13          eligible persons or equity eligible contractors by 2030.  
14          The Agency shall propose a schedule of percentage  
15          increases to the minimum equity standards in its draft  
16          revised renewable energy resources procurement plan  
17          submitted to the Commission for approval pursuant to  
18          paragraph (5) of subsection (b) of Section 16-111.5 of the  
19          Public Utilities Act. In determining these annual  
20          increases, the Agency shall have the discretion to  
21          establish different minimum equity standards for different  
22          types of procurements and different regions of the State  
23          if the Agency finds that doing so will further the  
24          purposes of this subsection (c-10). The proposed schedule  
25          of annual increases shall be revisited and updated on an  
26          annual basis. Revisions shall be developed with



1 stakeholder input, including from equity eligible persons,  
2 equity eligible contractors, clean energy industry  
3 representatives, and community-based organizations that  
4 work with such persons and contractors.

5 (A) At the start of each delivery year, the Agency  
6 shall require a compliance plan from each entity  
7 participating in a procurement program of subsection  
8 (c) of this Section that demonstrates how they will  
9 achieve compliance with the minimum equity standard  
10 percentage for work completed in that delivery year.  
11 If an entity applies for its approved vendor or  
12 designee status between delivery years, the Agency  
13 shall require a compliance plan at the time of  
14 application.

15 (B) Halfway through each delivery year, the Agency  
16 shall require each entity participating in a  
17 procurement program to confirm that it will achieve  
18 compliance in that delivery year, when applicable. The  
19 Agency may offer corrective action plans to entities  
20 that are not on track to achieve compliance.

21 (C) At the end of each delivery year, each entity  
22 participating and completing work in that delivery  
23 year in a procurement program of subsection (c) shall  
24 submit a report to the Agency that demonstrates how it  
25 achieved compliance with the minimum equity standards  
26 percentage for that delivery year.

1 (D) The Agency shall prohibit participation in  
2 procurement programs by an approved vendor or  
3 designee, as applicable, or entities with which an  
4 approved vendor or designee, as applicable, shares a  
5 common parent company if an approved vendor or  
6 designee, as applicable, failed to meet the minimum  
7 equity standards for the prior delivery year. Waivers  
8 approved for lack of equity eligible persons or equity  
9 eligible contractors in a geographic area of a project  
10 shall not count against the approved vendor or  
11 designee. The Agency shall offer a corrective action  
12 plan for any such entities to assist them in obtaining  
13 compliance and shall allow continued access to  
14 procurement programs upon an approved vendor or  
15 designee demonstrating compliance.

16 (E) The Agency shall pursue efficiencies achieved  
17 by combining with other approved vendor or designee  
18 reporting.

19 (2) Equity accountability system within the Adjustable  
20 Block program. The equity category described in item (vi)  
21 of subparagraph (K) of subsection (c) is only available to  
22 applicants that are equity eligible contractors.

23 (3) Equity accountability system within competitive  
24 procurements. Through its long-term renewable resources  
25 procurement plan, the Agency shall develop requirements  
26 for ensuring that competitive procurement processes,

1 including utility-scale solar, utility-scale wind, and  
2 brownfield site photovoltaic projects, advance the equity  
3 goals of this subsection (c-10). Subject to Commission  
4 approval, the Agency shall develop bid application  
5 requirements and a bid evaluation methodology for ensuring  
6 that utilization of equity eligible contractors, whether  
7 as bidders or as participants on project development, is  
8 optimized, including requiring that winning or successful  
9 applicants for utility-scale projects are or will partner  
10 with equity eligible contractors and giving preference to  
11 bids through which a higher portion of contract value  
12 flows to equity eligible contractors. To the extent  
13 practicable, entities participating in competitive  
14 procurements shall also be required to meet all the equity  
15 accountability requirements for approved vendors and their  
16 designees under this subsection (c-10). In developing  
17 these requirements, the Agency shall also consider whether  
18 equity goals can be further advanced through additional  
19 measures.

20 (4) In the first revision to the long-term renewable  
21 energy resources procurement plan and each revision  
22 thereafter, the Agency shall include the following:

23 (A) The current status and number of equity  
24 eligible contractors listed in the Energy Workforce  
25 Equity Database designed in subsection (c-25),  
26 including the number of equity eligible contractors

1 with current certifications as issued by the Agency.

2 (B) A mechanism for measuring, tracking, and  
3 reporting project workforce at the approved vendor or  
4 designee level, as applicable, which shall include a  
5 measurement methodology and records to be made  
6 available for audit by the Agency or the Program  
7 Administrator.

8 (C) A program for approved vendors, designees,  
9 eligible persons, and equity eligible contractors to  
10 receive trainings, guidance, and other support from  
11 the Agency or its designee regarding the equity  
12 category outlined in item (vi) of subparagraph (K) of  
13 paragraph (1) of subsection (c) and in meeting the  
14 minimum equity standards of this subsection (c-10).

15 (D) A process for certifying equity eligible  
16 contractors and equity eligible persons. The  
17 certification process shall coordinate with the Energy  
18 Workforce Equity Database set forth in subsection  
19 (c-25).

20 (E) An application for waiver of the minimum  
21 equity standards of this subsection, which the Agency  
22 shall have the discretion to grant in rare  
23 circumstances. The Agency may grant such a waiver  
24 where the applicant provides evidence of significant  
25 efforts toward meeting the minimum equity commitment,  
26 including: use of the Energy Workforce Equity

1 Database; efforts to hire or contract with entities  
2 that hire eligible persons; and efforts to establish  
3 contracting relationships with eligible contractors.  
4 The Agency shall support applicants in understanding  
5 the Energy Workforce Equity Database and other  
6 resources for pursuing compliance of the minimum  
7 equity standards. Waivers shall be project-specific,  
8 unless the Agency deems it necessary to grant a waiver  
9 across a portfolio of projects, and in effect for no  
10 longer than one year. Any waiver extension or  
11 subsequent waiver request from an applicant shall be  
12 subject to the requirements of this Section and shall  
13 specify efforts made to reach compliance. When  
14 considering whether to grant a waiver, and to what  
15 extent, the Agency shall consider the degree to which  
16 similarly situated applicants have been able to meet  
17 these minimum equity commitments. For repeated waiver  
18 requests for specific lack of eligible persons or  
19 eligible contractors available, the Agency shall make  
20 recommendations to target recruitment to add such  
21 eligible persons or eligible contractors to the  
22 database.

23 (5) The Agency shall collect information about work on  
24 projects or portfolios of projects subject to these  
25 minimum equity standards to ensure compliance with this  
26 subsection (c-10). Reporting in furtherance of this

1 requirement may be combined with other annual reporting  
2 requirements. Such reporting shall include proof of  
3 certification of each equity eligible contractor or equity  
4 eligible person during the applicable time period.

5 (6) The Agency shall keep confidential all information  
6 and communication that provides private or personal  
7 information.

8 (7) Modifications to the equity accountability system.  
9 As part of the update of the long-term renewable resources  
10 procurement plan to be initiated in 2023, or sooner if the  
11 Agency deems necessary, the Agency shall determine the  
12 extent to which the equity accountability system described  
13 in this subsection (c-10) has advanced the goals of this  
14 amendatory Act of the 102nd General Assembly, including  
15 through the inclusion of equity eligible persons and  
16 equity eligible contractors in renewable energy credit  
17 projects. If the Agency finds that the equity  
18 accountability system has failed to meet those goals to  
19 its fullest potential, the Agency may revise the following  
20 criteria for future Agency procurements: (A) the  
21 percentage of project workforce, or other appropriate  
22 workforce measure, certified as equity eligible persons or  
23 equity eligible contractors; (B) definitions for equity  
24 investment eligible persons and equity investment eligible  
25 community; and (C) such other modifications necessary to  
26 advance the goals of this amendatory Act of the 102nd

1 General Assembly effectively. Such revised criteria may  
2 also establish distinct equity accountability systems for  
3 different types of procurements or different regions of  
4 the State if the Agency finds that doing so will further  
5 the purposes of such programs. Revisions shall be  
6 developed with stakeholder input, including from equity  
7 eligible persons, equity eligible contractors, and  
8 community-based organizations that work with such persons  
9 and contractors.

10 (c-15) Racial discrimination elimination powers and  
11 process.

12 (1) Purpose. It is the purpose of this subsection to  
13 empower the Agency and other State actors to remedy racial  
14 discrimination in Illinois' clean energy economy as  
15 effectively and expediently as possible, including through  
16 the use of race-conscious remedies, such as race-conscious  
17 contracting and hiring goals, as consistent with State and  
18 federal law.

19 (2) Racial disparity and discrimination review  
20 process.

21 (A) Within one year after awarding contracts using  
22 the equity actions processes established in this  
23 Section, the Agency shall publish a report evaluating  
24 the effectiveness of the equity actions point criteria  
25 of this Section in increasing participation of equity  
26 eligible persons and equity eligible contractors. The

1 report shall disaggregate participating workers and  
2 contractors by race and ethnicity. The report shall be  
3 forwarded to the Governor, the General Assembly, and  
4 the Illinois Commerce Commission and be made available  
5 to the public.

6 (B) As soon as is practicable thereafter, the  
7 Agency, in consultation with the Department of  
8 Commerce and Economic Opportunity, Department of  
9 Labor, and other agencies that may be relevant, shall  
10 commission and publish a disparity and availability  
11 study that measures the presence and impact of  
12 discrimination on minority businesses and workers in  
13 Illinois' clean energy economy. The Agency may hire  
14 consultants and experts to conduct the disparity and  
15 availability study, with the retention of those  
16 consultants and experts exempt from the requirements  
17 of Section 20-10 of the Illinois Procurement Code. The  
18 Illinois Power Agency shall forward a copy of its  
19 findings and recommendations to the Governor, the  
20 General Assembly, and the Illinois Commerce  
21 Commission. If the disparity and availability study  
22 establishes a strong basis in evidence that there is  
23 discrimination in Illinois' clean energy economy, the  
24 Agency, Department of Commerce and Economic  
25 Opportunity, Department of Labor, Department of  
26 Corrections, and other appropriate agencies shall take



1 appropriate remedial actions, including race-conscious  
2 remedial actions as consistent with State and federal  
3 law, to effectively remedy this discrimination. Such  
4 remedies may include modification of the equity  
5 accountability system as described in subsection  
6 (c-10).

7 (c-20) Program data collection.

8 (1) Purpose. Data collection, data analysis, and  
9 reporting are critical to ensure that the benefits of the  
10 clean energy economy provided to Illinois residents and  
11 businesses are equitably distributed across the State. The  
12 Agency shall collect data from program applicants in order  
13 to track and improve equitable distribution of benefits  
14 across Illinois communities for all procurements the  
15 Agency conducts. The Agency shall use this data to, among  
16 other things, measure any potential impact of racial  
17 discrimination on the distribution of benefits and provide  
18 information necessary to correct any discrimination  
19 through methods consistent with State and federal law.

20 (2) Agency collection of program data. The Agency  
21 shall collect demographic and geographic data for each  
22 entity awarded contracts under any Agency-administered  
23 program.

24 (3) Required information to be collected. The Agency  
25 shall collect the following information from applicants  
26 and program participants where applicable:

1 (A) demographic information, including racial or  
2 ethnic identity for real persons employed, contracted,  
3 or subcontracted through the program and owners of  
4 businesses or entities that apply to receive renewable  
5 energy credits from the Agency;

6 (B) geographic location of the residency of real  
7 persons employed, contracted, or subcontracted through  
8 the program and geographic location of the  
9 headquarters of the business or entity that applies to  
10 receive renewable energy credits from the Agency; and

11 (C) any other information the Agency determines is  
12 necessary for the purpose of achieving the purpose of  
13 this subsection.

14 (4) Publication of collected information. The Agency  
15 shall publish, at least annually, information on the  
16 demographics of program participants on an aggregate  
17 basis.

18 (5) Nothing in this subsection shall be interpreted to  
19 limit the authority of the Agency, or other agency or  
20 department of the State, to require or collect demographic  
21 information from applicants of other State programs.

22 (c-25) Energy Workforce Equity Database.

23 (1) The Agency, in consultation with the Department of  
24 Commerce and Economic Opportunity, shall create an Energy  
25 Workforce Equity Database, and may contract with a third  
26 party to do so ("database program administrator"). If the

1 Department decides to contract with a third party, that  
2 third party shall be exempt from the requirements of  
3 Section 20-10 of the Illinois Procurement Code. The Energy  
4 Workforce Equity Database shall be a searchable database  
5 of suppliers, vendors, and subcontractors for clean energy  
6 industries that is:

7 (A) publicly accessible;

8 (B) easy for people to find and use;

9 (C) organized by company specialty or field;

10 (D) region-specific; and

11 (E) populated with information including, but not  
12 limited to, contacts for suppliers, vendors, or  
13 subcontractors who are minority and women-owned  
14 business enterprise certified or who participate or  
15 have participated in any of the programs described in  
16 this Act.

17 (2) The Agency shall create an easily accessible,  
18 public facing online tool using the database information  
19 that includes, at a minimum, the following:

20 (A) a map of environmental justice and equity  
21 investment eligible communities;

22 (B) job postings and recruiting opportunities;

23 (C) a means by which recruiting clean energy  
24 companies can find and interact with current or former  
25 participants of clean energy workforce training  
26 programs;

1 (D) information on workforce training service  
2 providers and training opportunities available to  
3 prospective workers;

4 (E) renewable energy company diversity reporting;

5 (F) a list of equity eligible contractors with  
6 their contact information, types of work performed,  
7 and locations worked in;

8 (G) reporting on outcomes of the programs  
9 described in the workforce programs of the Energy  
10 Transition Act, including information such as, but not  
11 limited to, retention rate, graduation rate, and  
12 placement rates of trainees; and

13 (H) information about the Jobs and Environmental  
14 Justice Grant Program, the Clean Energy Jobs and  
15 Justice Fund, and other sources of capital.

16 (3) The Agency shall ensure the database is regularly  
17 updated to ensure information is current and shall  
18 coordinate with the Department of Commerce and Economic  
19 Opportunity to ensure that it includes information on  
20 individuals and entities that are or have participated in  
21 the Clean Jobs Workforce Network Program, Clean Energy  
22 Contractor Incubator Program, Returning Residents Clean  
23 Jobs Training Program, or Clean Energy Primes Contractor  
24 Accelerator Program.

25 (c-30) Enforcement of minimum equity standards. All  
26 entities seeking renewable energy credits must submit an

1 annual report to demonstrate compliance with each of the  
2 equity commitments required under subsection (c-10). If the  
3 Agency concludes the entity has not met or maintained its  
4 minimum equity standards required under the applicable  
5 subparagraphs under subsection (c-10), the Agency shall deny  
6 the entity's ability to participate in procurement programs in  
7 subsection (c), including by withholding approved vendor or  
8 designee status. The Agency may require the entity to enter  
9 into a corrective action plan. An entity that is not  
10 recertified for failing to meet required equity actions in  
11 subparagraph (c-10) may reapply once they have a corrective  
12 action plan and achieve compliance with the minimum equity  
13 standards.

14 (d) Clean coal portfolio standard.

15 (1) The procurement plans shall include electricity  
16 generated using clean coal. Each utility shall enter into  
17 one or more sourcing agreements with the initial clean  
18 coal facility, as provided in paragraph (3) of this  
19 subsection (d), covering electricity generated by the  
20 initial clean coal facility representing at least 5% of  
21 each utility's total supply to serve the load of eligible  
22 retail customers in 2015 and each year thereafter, as  
23 described in paragraph (3) of this subsection (d), subject  
24 to the limits specified in paragraph (2) of this  
25 subsection (d). It is the goal of the State that by January  
26 1, 2025, 25% of the electricity used in the State shall be

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

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

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

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

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

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

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

26                   (B) in 2011, the greater of an additional 0.5% of

1 the amount paid per kilowatthour by those customers  
2 during the year ending May 31, 2010 or 1% of the amount  
3 paid per kilowatthour by those customers during the  
4 year ending May 31, 2009;

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

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

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



1           only as provided by statute.

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

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

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

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

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

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

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

9 (B) power purchase provisions, which shall:

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

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

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

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

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

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

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

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

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

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

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

8 (D) general provisions, which shall:

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

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

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

26 (iv) permit the Illinois Power Agency to

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

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

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



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

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

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

26 (viii) limit the utility's obligation to such

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

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

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

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

26 (xii) provide that any changes to the terms of

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

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

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

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

1 documentation related to the facility cost report.

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

24 (iii) General Assembly approval. The proposed  
25 sourcing agreements shall not take effect unless,  
26 based on the facility cost report and the Commission's

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

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

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

1 estimated costs of operation and maintenance of the  
2 facility. The facility cost report shall include:

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

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

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

1 cost quote is expressed.

2 (B) The front end engineering and design study for  
3 the gasification island and the cost study for the  
4 balance of plant shall include sufficient design work  
5 to permit quantification of major categories of  
6 materials, commodities and labor hours, and receipt of  
7 quotes from vendors of major equipment required to  
8 construct and operate the clean coal facility.

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

25 The operating and maintenance cost quote  
26 (including the cost of the front end engineering and

1 design study) shall be expressed in nominal dollars as  
2 of the date that the quote is prepared and shall  
3 include taxes, insurance, and other owner's costs, and  
4 an assumed escalation in materials and labor beyond  
5 the date as of which the operating and maintenance  
6 cost quote is expressed.

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

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

19 (5) Re-powering and retrofitting coal-fired power  
20 plants previously owned by Illinois utilities to qualify  
21 as clean coal facilities. During the 2009 procurement  
22 planning process and thereafter, the Agency and the  
23 Commission shall consider sourcing agreements covering  
24 electricity generated by power plants that were previously  
25 owned by Illinois utilities and that have been or will be  
26 converted into clean coal facilities, as defined by



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

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

1 Commission.

2 (d-5) Zero emission standard.

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

1 zero emission facility is owned by more than one entity,  
2 then the quantity of zero emission credits to be procured  
3 under the contracts shall be the amount of zero emission  
4 credits that are generated from the portion of the zero  
5 emission facility that is owned by the winning supplier.

6 The 16% value identified in this paragraph (1) is the  
7 average of the percentage targets in subparagraph (B) of  
8 paragraph (1) of subsection (c) of this Section for the 5  
9 delivery years beginning June 1, 2017.

10 The procurement process shall be subject to the  
11 following provisions:

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

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

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

25 (iii) the annual zero emission facility cost  
26 projections, expressed on a per megawatthour

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

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

21 The information described in item (iii) of this  
22 subparagraph (A) may be submitted on a confidential  
23 basis and shall be treated and maintained by the  
24 Agency, the procurement administrator, and the  
25 Commission as confidential and proprietary and exempt  
26 from disclosure under subparagraphs (a) and (g) of

1 paragraph (1) of Section 7 of the Freedom of  
2 Information Act. The Office of Attorney General shall  
3 have access to, and maintain the confidentiality of,  
4 such information pursuant to Section 6.5 of the  
5 Attorney General Act.

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

23 (i) Social Cost of Carbon: The Social Cost of  
24 Carbon is \$16.50 per megawatthour, which is based  
25 on the U.S. Interagency Working Group on Social  
26 Cost of Carbon's price in the August 2016

1 Technical Update using a 3% discount rate,  
2 adjusted for inflation for each year of the  
3 program. Beginning with the delivery year  
4 commencing June 1, 2023, the price per  
5 megawatthour shall increase by \$1 per  
6 megawatthour, and continue to increase by an  
7 additional \$1 per megawatthour each delivery year  
8 thereafter.

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

24 (iii) Market price index: The market price  
25 index for a delivery year shall be the sum of  
26 projected energy prices and projected capacity

1 prices determined as follows:

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

17 (bb) Projected capacity prices:

18 (I) For the delivery years commencing  
19 June 1, 2017, June 1, 2018, and June 1,  
20 2019, the projected capacity price shall  
21 be equal to the sum of (1) 50% multiplied  
22 by the Base Residual Auction, or its  
23 successor, price for the rest of the RTO  
24 zone group as determined by PJM  
25 Interconnection LLC, divided by 24 hours  
26 per day and, (2) 50% multiplied by the

1 resource auction price determined in the  
2 resource auction administered by the  
3 Midcontinent Independent System Operator,  
4 Inc., in which the largest percentage of  
5 load cleared for Local Resource Zone 4,  
6 divided by 24 hours per day, and where  
7 such price is determined by the  
8 Midcontinent Independent System Operator,  
9 Inc.

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



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

2 "Rest of the RTO" and "ComEd Zone" shall have  
3 the meaning ascribed to them by PJM  
4 Interconnection, LLC.

5 "RTO" means regional transmission  
6 organization.

7 (C) No later than 45 days after June 1, 2017 (the  
8 effective date of Public Act 99-906), the Agency shall  
9 publish its proposed zero emission standard  
10 procurement plan. The plan shall be consistent with  
11 the provisions of this paragraph (1) and shall provide  
12 that winning bids shall be selected based on public  
13 interest criteria that include, but are not limited  
14 to, minimizing carbon dioxide emissions that result  
15 from electricity consumed in Illinois and minimizing  
16 sulfur dioxide, nitrogen oxide, and particulate matter  
17 emissions that adversely affect the citizens of this  
18 State. In particular, the selection of winning bids  
19 shall take into account the incremental environmental  
20 benefits resulting from the procurement, such as any  
21 existing environmental benefits that are preserved by  
22 the procurements held under Public Act 99-906 and  
23 would cease to exist if the procurements were not  
24 held, including the preservation of zero emission  
25 facilities. The plan shall also describe in detail how  
26 each public interest factor shall be considered and

1 weighted in the bid selection process to ensure that  
2 the public interest criteria are applied to the  
3 procurement and given full effect.

4 For purposes of developing the plan, the Agency  
5 shall consider any reports issued by a State agency,  
6 board, or commission under House Resolution 1146 of  
7 the 98th General Assembly and paragraph (4) of  
8 subsection (d) of this Section, as well as publicly  
9 available analyses and studies performed by or for  
10 regional transmission organizations that serve the  
11 State and their independent market monitors.

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

24 If the Commission determines that the plan will  
25 result in the procurement of cost-effective zero  
26 emission credits, then the Commission shall, after

1 notice and hearing, but no later than 45 days after the  
2 Agency filed the plan, approve the plan or approve  
3 with modification. For purposes of this subsection  
4 (d-5), "cost effective" means the projected costs of  
5 procuring zero emission credits from zero emission  
6 facilities do not cause the limit stated in paragraph  
7 (2) of this subsection to be exceeded.

8 (C-5) As part of the Commission's review and  
9 acceptance or rejection of the procurement results,  
10 the Commission shall, in its public notice of  
11 successful bidders:

12 (i) identify how the winning bids satisfy the  
13 public interest criteria described in subparagraph  
14 (C) of this paragraph (1) of minimizing carbon  
15 dioxide emissions that result from electricity  
16 consumed in Illinois and minimizing sulfur  
17 dioxide, nitrogen oxide, and particulate matter  
18 emissions that adversely affect the citizens of  
19 this State;

20 (ii) specifically address how the selection of  
21 winning bids takes into account the incremental  
22 environmental benefits resulting from the  
23 procurement, including any existing environmental  
24 benefits that are preserved by the procurements  
25 held under Public Act 99-906 and would have ceased  
26 to exist if the procurements had not been held,

1 such as the preservation of zero emission  
2 facilities;

3 (iii) quantify the environmental benefit of  
4 preserving the resources identified in item (ii)  
5 of this subparagraph (C-5), including the  
6 following:

7 (aa) the value of avoided greenhouse gas  
8 emissions measured as the product of the zero  
9 emission facilities' output over the contract  
10 term multiplied by the U.S. Environmental  
11 Protection Agency eGrid subregion carbon  
12 dioxide emission rate and the U.S. Interagency  
13 Working Group on Social Cost of Carbon's price  
14 in the August 2016 Technical Update using a 3%  
15 discount rate, adjusted for inflation for each  
16 delivery year; and

17 (bb) the costs of replacement with other  
18 zero carbon dioxide resources, including wind  
19 and photovoltaic, based upon the simple  
20 average of the following:

21 (I) the price, or if there is more  
22 than one price, the average of the prices,  
23 paid for renewable energy credits from new  
24 utility-scale wind projects in the  
25 procurement events specified in item (i)  
26 of subparagraph (G) of paragraph (1) of

1 subsection (c) of this Section; and

2 (II) the price, or if there is more  
3 than one price, the average of the prices,  
4 paid for renewable energy credits from new  
5 utility-scale solar projects and  
6 brownfield site photovoltaic projects in  
7 the procurement events specified in item  
8 (ii) of subparagraph (G) of paragraph (1)  
9 of subsection (c) of this Section and,  
10 after January 1, 2015, renewable energy  
11 credits from photovoltaic distributed  
12 generation projects in procurement events  
13 held under subsection (c) of this Section.

14 Each utility shall enter into binding contractual  
15 arrangements with the winning suppliers.

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

1 of this Section and Section 16-111.5 of the Public  
2 Utilities Act, to the extent practicable.  
3 Notwithstanding whether a procurement event is  
4 conducted under Section 16-111.5 of the Public  
5 Utilities Act, the Agency shall immediately initiate a  
6 procurement process on June 1, 2017 (the effective  
7 date of Public Act 99-906).

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

16 (E) Notwithstanding the requirements of this  
17 subsection (d-5), the contracts executed under this  
18 subsection (d-5) shall provide that the zero emission  
19 facility may, as applicable, suspend or terminate  
20 performance under the contracts in the following  
21 instances:

22 (i) A zero emission facility shall be excused  
23 from its performance under the contract for any  
24 cause beyond the control of the resource,  
25 including, but not restricted to, acts of God,  
26 flood, drought, earthquake, storm, fire,

1 lightning, epidemic, war, riot, civil disturbance  
2 or disobedience, labor dispute, labor or material  
3 shortage, sabotage, acts of public enemy,  
4 explosions, orders, regulations or restrictions  
5 imposed by governmental, military, or lawfully  
6 established civilian authorities, which, in any of  
7 the foregoing cases, by exercise of commercially  
8 reasonable efforts the zero emission facility  
9 could not reasonably have been expected to avoid,  
10 and which, by the exercise of commercially  
11 reasonable efforts, it has been unable to  
12 overcome. In such event, the zero emission  
13 facility shall be excused from performance for the  
14 duration of the event, including, but not limited  
15 to, delivery of zero emission credits, and no  
16 payment shall be due to the zero emission facility  
17 during the duration of the event.

18 (ii) A zero emission facility shall be  
19 permitted to terminate the contract if legislation  
20 is enacted into law by the General Assembly that  
21 imposes or authorizes a new tax, special  
22 assessment, or fee on the generation of  
23 electricity, the ownership or leasehold of a  
24 generating unit, or the privilege or occupation of  
25 such generation, ownership, or leasehold of  
26 generation units by a zero emission facility.

1           However, the provisions of this item (ii) do not  
2           apply to any generally applicable tax, special  
3           assessment or fee, or requirements imposed by  
4           federal law.

5                   (iii) A zero emission facility shall be  
6           permitted to terminate the contract in the event  
7           that the resource requires capital expenditures in  
8           excess of \$40,000,000 that were neither known nor  
9           reasonably foreseeable at the time it executed the  
10          contract and that a prudent owner or operator of  
11          such resource would not undertake.

12                   (iv) A zero emission facility shall be  
13          permitted to terminate the contract in the event  
14          the Nuclear Regulatory Commission terminates the  
15          resource's license.

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

25                   (2) For purposes of this subsection (d-5), the amount  
26          paid per kilowatthour means the total amount paid for



1 electric service expressed on a per kilowatthour basis.  
2 For purposes of this subsection (d-5), the total amount  
3 paid for electric service includes, without limitation,  
4 amounts paid for supply, transmission, distribution,  
5 surcharges, and add-on taxes.

6 Notwithstanding the requirements of this subsection  
7 (d-5), the contracts executed under this subsection (d-5)  
8 shall provide that the total of zero emission credits  
9 procured under a procurement plan shall be subject to the  
10 limitations of this paragraph (2). For each delivery year,  
11 the contractual volume receiving payments in such year  
12 shall be reduced for all retail customers based on the  
13 amount necessary to limit the net increase that delivery  
14 year to the costs of those credits included in the amounts  
15 paid by eligible retail customers in connection with  
16 electric service to no more than 1.65% of the amount paid  
17 per kilowatthour by eligible retail customers during the  
18 year ending May 31, 2009. The result of this computation  
19 shall apply to and reduce the procurement for all retail  
20 customers, and all those customers shall pay the same  
21 single, uniform cents per kilowatthour charge under  
22 subsection (k) of Section 16-108 of the Public Utilities  
23 Act. To arrive at a maximum dollar amount of zero emission  
24 credits to be paid for the particular delivery year, the  
25 resulting per kilowatthour amount shall be applied to the  
26 actual amount of kilowatthours of electricity delivered by

1 the electric utility in the delivery year immediately  
2 prior to the procurement, to all retail customers in its  
3 service territory. Unpaid contractual volume for any  
4 delivery year shall be paid in any subsequent delivery  
5 year in which such payments can be made without exceeding  
6 the amount specified in this paragraph (2). The  
7 calculations required by this paragraph (2) shall be made  
8 only once for each procurement plan year. Once the  
9 determination as to the amount of zero emission credits to  
10 be paid is made based on the calculations set forth in this  
11 paragraph (2), no subsequent rate impact determinations  
12 shall be made and no adjustments to those contract amounts  
13 shall be allowed. All costs incurred under those contracts  
14 and in implementing this subsection (d-5) shall be  
15 recovered by the electric utility as provided in this  
16 Section.

17 No later than June 30, 2019, the Commission shall  
18 review the limitation on the amount of zero emission  
19 credits procured under this subsection (d-5) and report to  
20 the General Assembly its findings as to whether that  
21 limitation unduly constrains the procurement of  
22 cost-effective zero emission credits.

23 (3) Six years after the execution of a contract under  
24 this subsection (d-5), the Agency shall determine whether  
25 the actual zero emission credit payments received by the  
26 supplier over the 6-year period exceed the Average ZEC

1 Payment. In addition, at the end of the term of a contract  
2 executed under this subsection (d-5), or at the time, if  
3 any, a zero emission facility's contract is terminated  
4 under subparagraph (E) of paragraph (1) of this subsection  
5 (d-5), then the Agency shall determine whether the actual  
6 zero emission credit payments received by the supplier  
7 over the term of the contract exceed the Average ZEC  
8 Payment, after taking into account any amounts previously  
9 credited back to the utility under this paragraph (3). If  
10 the Agency determines that the actual zero emission credit  
11 payments received by the supplier over the relevant period  
12 exceed the Average ZEC Payment, then the supplier shall  
13 credit the difference back to the utility. The amount of  
14 the credit shall be remitted to the applicable electric  
15 utility no later than 120 days after the Agency's  
16 determination, which the utility shall reflect as a credit  
17 on its retail customer bills as soon as practicable;  
18 however, the credit remitted to the utility shall not  
19 exceed the total amount of payments received by the  
20 facility under its contract.

21 For purposes of this Section, the Average ZEC Payment  
22 shall be calculated by multiplying the quantity of zero  
23 emission credits delivered under the contract times the  
24 average contract price. The average contract price shall  
25 be determined by subtracting the amount calculated under  
26 subparagraph (B) of this paragraph (3) from the amount

1           calculated under subparagraph (A) of this paragraph (3),  
2           as follows:

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

6                   (B) The average of the market price indices, as  
7                   defined in subparagraph (B) of paragraph (1) of this  
8                   subsection (d-5), during the term of the contract,  
9                   minus the baseline market price index, as defined in  
10                   subparagraph (B) of paragraph (1) of this subsection  
11                   (d-5).

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

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

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

20                   (6) Electric utilities shall be entitled to recover  
21                   all of the costs associated with the procurement of zero  
22                   emission credits through an automatic adjustment clause  
23                   tariff in accordance with subsection (k) and (m) of  
24                   Section 16-108 of the Public Utilities Act, and the  
25                   contracts executed under this subsection (d-5) shall  
26                   provide that the utilities' payment obligations under such

1 contracts shall be reduced if an adjustment is required  
2 under subsection (m) of Section 16-108 of the Public  
3 Utilities Act.

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

6 (d-10) Nuclear Plant Assistance; carbon mitigation  
7 credits.

8 (1) The General Assembly finds:

9 (A) The health, welfare, and prosperity of all  
10 Illinois citizens require that the State of Illinois act  
11 to avoid and not increase carbon emissions from electric  
12 generation sources while continuing to ensure affordable,  
13 stable, and reliable electricity to all citizens.

14 (B) Absent immediate action by the State to preserve  
15 existing carbon-free energy resources, those resources may  
16 retire, and the electric generation needs of Illinois'  
17 retail customers may be met instead by facilities that  
18 emit significant amounts of carbon pollution and other  
19 harmful air pollutants at a high social and economic cost  
20 until Illinois is able to develop other forms of clean  
21 energy.

22 (C) The General Assembly finds that nuclear power  
23 generation is necessary for the State's transition to 100%  
24 clean energy, and ensuring continued operation of nuclear  
25 plants advances environmental and public health interests  
26 through providing carbon-free electricity while reducing

1 the air pollution profile of the Illinois energy  
2 generation fleet.

3 (D) The clean energy attributes of nuclear generation  
4 facilities support the State in its efforts to achieve  
5 100% clean energy.

6 (E) The State currently invests in various forms of  
7 clean energy, including, but not limited to, renewable  
8 energy, energy efficiency, and low-emission vehicles,  
9 among others.

10 (F) The Environmental Protection Agency commissioned  
11 an independent audit which provided a detailed assessment  
12 of the financial condition of the Illinois nuclear fleet  
13 to evaluate its financial viability and whether the  
14 environmental benefits of such resources were at risk. The  
15 report identified the risk of losing the environmental  
16 benefits of several specific nuclear units. The report  
17 also identified that the LaSalle County Generating Station  
18 will continue to operate through 2026 and therefore is not  
19 eligible to participate in the carbon mitigation credit  
20 program.

21 (G) Nuclear plants provide carbon-free energy, which  
22 helps to avoid many health-related negative impacts for  
23 Illinois residents.

24 (H) The procurement of carbon mitigation credits  
25 representing the environmental benefits of carbon-free  
26 generation will further the State's efforts at achieving

1           100% clean energy and decarbonizing the electricity sector  
2           in a safe, reliable, and affordable manner. Further, the  
3           procurement of carbon emission credits will enhance the  
4           health and welfare of Illinois residents through decreased  
5           reliance on more highly polluting generation.

6           (I) The General Assembly therefore finds it necessary  
7           to establish carbon mitigation credits to ensure decreased  
8           reliance on more carbon-intensive energy resources, for  
9           transitioning to a fully decarbonized electricity sector,  
10          and to help ensure health and welfare of the State's  
11          residents.

12          (2) As used in this subsection:

13          "Baseline costs" means costs used to establish a customer  
14          protection cap that have been evaluated through an independent  
15          audit of a carbon-free energy resource conducted by the  
16          Environmental Protection Agency that evaluated projected  
17          annual costs for operation and maintenance expenses; fully  
18          allocated overhead costs, which shall be allocated using the  
19          methodology developed by the Institute for Nuclear Power  
20          Operations; fuel expenditures; nonfuel capital expenditures;  
21          spent fuel expenditures; a return on working capital; the cost  
22          of operational and market risks that could be avoided by  
23          ceasing operation; and any other costs necessary for continued  
24          operations, provided that "necessary" means, for purposes of  
25          this definition, that the costs could reasonably be avoided  
26          only by ceasing operations of the carbon-free energy resource.

1 "Carbon mitigation credit" means a tradable credit that  
2 represents the carbon emission reduction attributes of one  
3 megawatt-hour of energy produced from a carbon-free energy  
4 resource.

5 "Carbon-free energy resource" means a generation facility  
6 that: (1) is fueled by nuclear power; and (2) is  
7 interconnected to PJM Interconnection, LLC.

8 (3) Procurement.

9 (A) Beginning with the delivery year commencing on  
10 June 1, 2022, the Agency shall, for electric utilities  
11 serving at least 3,000,000 retail customers in the State,  
12 seek to procure contracts for no more than approximately  
13 54,500,000 cost-effective carbon mitigation credits from  
14 carbon-free energy resources because such credits are  
15 necessary to support current levels of carbon-free energy  
16 generation and ensure the State meets its carbon dioxide  
17 emissions reduction goals. The Agency shall not make a  
18 partial award of a contract for carbon mitigation credits  
19 covering a fractional amount of a carbon-free energy  
20 resource's projected output.

21 (B) Each carbon-free energy resource that intends to  
22 participate in a procurement shall be required to submit  
23 to the Agency the following information for the resource  
24 on or before the date established by the Agency:

25 (i) the in-service date and remaining useful life  
26 of the carbon-free energy resource;



1           (ii) the amount of power generated annually for  
2 each of the past 10 years, which shall be used to  
3 determine the capability of each facility;

4           (iii) a commitment to be reflected in any contract  
5 entered into pursuant to this subsection (d-10) to  
6 continue operating the carbon-free energy resource at  
7 a capacity factor of at least 88% annually on average  
8 for the duration of the contract or contracts executed  
9 under the procurement held under this subsection  
10 (d-10), except in an instance described in  
11 subparagraph (E) of paragraph (1) of subsection (d-5)  
12 of this Section or made impracticable as a result of  
13 compliance with law or regulation;

14           (iv) financial need and the risk of loss of the  
15 environmental benefits of such resource, which shall  
16 include the following information:

17           (I) the carbon-free energy resource's cost  
18 projections, expressed on a per megawatt-hour  
19 basis, over the next 5 delivery years, which shall  
20 include the following: operation and maintenance  
21 expenses; fully allocated overhead costs, which  
22 shall be allocated using the methodology developed  
23 by the Institute for Nuclear Power Operations;  
24 fuel expenditures; nonfuel capital expenditures;  
25 spent fuel expenditures; a return on working  
26 capital; the cost of operational and market risks

1           that could be avoided by ceasing operation; and  
2           any other costs necessary for continued  
3           operations, provided that "necessary" means, for  
4           purposes of this subitem (I), that the costs could  
5           reasonably be avoided only by ceasing operations  
6           of the carbon-free energy resource; and

7                         (II) the carbon-free energy resource's revenue  
8           projections, including energy, capacity, ancillary  
9           services, any other direct State support, known or  
10          anticipated federal attribute credits, known or  
11          anticipated tax credits, and any other direct  
12          federal support.

13           The information described in this subparagraph (B) may  
14          be submitted on a confidential basis and shall be treated  
15          and maintained by the Agency, the procurement  
16          administrator, and the Commission as confidential and  
17          proprietary and exempt from disclosure under subparagraphs  
18          (a) and (g) of paragraph (1) of Section 7 of the Freedom of  
19          Information Act. The Office of the Attorney General shall  
20          have access to, and maintain the confidentiality of, such  
21          information pursuant to Section 6.5 of the Attorney  
22          General Act.

23           (C) The Agency shall solicit bids for the contracts  
24          described in this subsection (d-10) from carbon-free  
25          energy resources that have satisfied the requirements of  
26          subparagraph (B) of this paragraph (3). The contracts

1 procured pursuant to a procurement event shall reflect,  
2 and be subject to, the following terms, requirements, and  
3 limitations:

4 (i) Contracts are for delivery of carbon  
5 mitigation credits, and are not energy or capacity  
6 sales contracts requiring physical delivery. Pursuant  
7 to item (iii), contract payments shall fully deduct  
8 the value of any monetized federal production tax  
9 credits, credits issued pursuant to a federal clean  
10 energy standard, and other federal credits if  
11 applicable.

12 (ii) Contracts for carbon mitigation credits shall  
13 commence with the delivery year beginning on June 1,  
14 2022 and shall be for a term of 5 delivery years  
15 concluding on May 31, 2027.

16 (iii) The price per carbon mitigation credit to be  
17 paid under a contract for a given delivery year shall  
18 be equal to an accepted bid price less the sum of:

19 (I) one of the following energy price indices,  
20 selected by the bidder at the time of the bid for  
21 the term of the contract:

22 (aa) the weighted-average hourly day-ahead  
23 price for the applicable delivery year at the  
24 busbar of all resources procured pursuant to  
25 this subsection (d-10), weighted by actual  
26 production from the resources; or

1 (bb) the projected energy price for the  
2 PJM Interconnection, LLC Northern Illinois Hub  
3 for the applicable delivery year determined  
4 according to subitem (aa) of item (iii) of  
5 subparagraph (B) of paragraph (1) of  
6 subsection (d-5).

7 (II) the Base Residual Auction Capacity Price  
8 for the ComEd zone as determined by PJM  
9 Interconnection, LLC, divided by 24 hours per day,  
10 for the applicable delivery year for the first 3  
11 delivery years, and then any subsequent delivery  
12 years unless the PJM Interconnection, LLC applies  
13 the Minimum Offer Price Rule to participating  
14 carbon-free energy resources because they supply  
15 carbon mitigation credits pursuant to this Section  
16 at which time, upon notice by the carbon-free  
17 energy resource to the Commission and subject to  
18 the Commission's confirmation, the value under  
19 this subitem shall be zero, as further described  
20 in the carbon mitigation credit procurement plan;  
21 and

22 (III) any value of monetized federal tax  
23 credits, direct payments, or similar subsidy  
24 provided to the carbon-free energy resource from  
25 any unit of government that is not already  
26 reflected in energy prices.

1           If the price-per-megawatt-hour calculation  
2 performed under item (iii) of this subparagraph (C)  
3 for a given delivery year results in a net positive  
4 value, then the electric utility counterparty to the  
5 contract shall multiply such net value by the  
6 applicable contract quantity and remit the amount to  
7 the supplier.

8           To protect retail customers from retail rate  
9 impacts that may arise upon the initiation of carbon  
10 policy changes, if the price-per-megawatt-hour  
11 calculation performed under item (iii) of this  
12 subparagraph (C) for a given delivery year results in  
13 a net negative value, then the supplier counterparty  
14 to the contract shall multiply such net value by the  
15 applicable contract quantity and remit such amount to  
16 the electric utility counterparty. The electric  
17 utility shall reflect such amounts remitted by  
18 suppliers as a credit on its retail customer bills as  
19 soon as practicable.

20           (iv) To ensure that retail customers in Northern  
21 Illinois do not pay more for carbon mitigation credits  
22 than the value such credits provide, and  
23 notwithstanding the provisions of this subsection  
24 (d-10), the Agency shall not accept bids for contracts  
25 that exceed a customer protection cap equal to the  
26 baseline costs of carbon-free energy resources.

1           The baseline costs for the applicable year shall  
2 be the following:

3           (I) For the delivery year beginning June 1,  
4 2022, the baseline costs shall be an amount equal  
5 to \$30.30 per megawatt-hour.

6           (II) For the delivery year beginning June 1,  
7 2023, the baseline costs shall be an amount equal  
8 to \$32.50 per megawatt-hour.

9           (III) For the delivery year beginning June 1,  
10 2024, the baseline costs shall be an amount equal  
11 to \$33.43 per megawatt-hour.

12           (IV) For the delivery year beginning June 1,  
13 2025, the baseline costs shall be an amount equal  
14 to \$33.50 per megawatt-hour.

15           (V) For the delivery year beginning June 1,  
16 2026, the baseline costs shall be an amount equal  
17 to \$34.50 per megawatt-hour.

18           An Environmental Protection Agency consultant  
19 forecast, included in a report issued April 14, 2021,  
20 projects that a carbon-free energy resource has the  
21 opportunity to earn on average approximately \$30.28  
22 per megawatt-hour, for the sale of energy and capacity  
23 during the time period between 2022 and 2027.  
24 Therefore, the sale of carbon mitigation credits  
25 provides the opportunity to receive an additional  
26 amount per megawatt-hour in addition to the projected

1 prices for energy and capacity.

2 Although actual energy and capacity prices may  
3 vary from year-to-year, the General Assembly finds  
4 that this customer protection cap will help ensure  
5 that the cost of carbon mitigation credits will be  
6 less than its value, based upon the social cost of  
7 carbon identified in the Technical Support Document  
8 issued in February 2021 by the U.S. Interagency  
9 Working Group on Social Cost of Greenhouse Gases and  
10 the PJM Interconnection, LLC carbon dioxide marginal  
11 emission rate for 2020, and that a carbon-free energy  
12 resource receiving payment for carbon mitigation  
13 credits receives no more than necessary to keep those  
14 units in operation.

15 (D) No later than 7 days after the effective date of  
16 this amendatory Act of the 102nd General Assembly, the  
17 Agency shall publish its proposed carbon mitigation credit  
18 procurement plan. The Plan shall provide that winning bids  
19 shall be selected by taking into consideration which  
20 resources best match public interest criteria that  
21 include, but are not limited to, minimizing carbon dioxide  
22 emissions that result from electricity consumed in  
23 Illinois and minimizing sulfur dioxide, nitrogen oxide,  
24 and particulate matter emissions that adversely affect the  
25 citizens of this State. The selection of winning bids  
26 shall also take into account the incremental environmental

1 benefits resulting from the procurement or procurements,  
2 such as any existing environmental benefits that are  
3 preserved by a procurement held under this subsection  
4 (d-10) and would cease to exist if the procurement were  
5 not held, including the preservation of carbon-free energy  
6 resources. For those bidders having the same public  
7 interest criteria score, the relative ranking of such  
8 bidders shall be determined by price. The Plan shall  
9 describe in detail how each public interest factor shall  
10 be considered and weighted in the bid selection process to  
11 ensure that the public interest criteria are applied to  
12 the procurement. The Plan shall, to the extent practical  
13 and permissible by federal law, ensure that successful  
14 bidders make commercially reasonable efforts to apply for  
15 federal tax credits, direct payments, or similar subsidy  
16 programs that support carbon-free generation and for which  
17 the successful bidder is eligible. Upon publishing of the  
18 carbon mitigation credit procurement plan, copies of the  
19 plan shall be posted and made publicly available on the  
20 Agency's website. All interested parties shall have 7 days  
21 following the date of posting to provide comment to the  
22 Agency on the plan. All comments shall be posted to the  
23 Agency's website. Following the end of the comment period,  
24 but no more than 19 days later than the effective date of  
25 this amendatory Act of the 102nd General Assembly, the  
26 Agency shall revise the plan as necessary based on the



1           comments received and file its carbon mitigation credit  
2           procurement plan with the Commission.

3           (E) If the Commission determines that the plan is  
4           likely to result in the procurement of cost-effective  
5           carbon mitigation credits, then the Commission shall,  
6           after notice and hearing and opportunity for comment, but  
7           no later than 42 days after the Agency filed the plan,  
8           approve the plan or approve it with modification. For  
9           purposes of this subsection (d-10), "cost-effective" means  
10          carbon mitigation credits that are procured from  
11          carbon-free energy resources at prices that are within the  
12          limits specified in this paragraph (3). As part of the  
13          Commission's review and acceptance or rejection of the  
14          procurement results, the Commission shall, in its public  
15          notice of successful bidders:

16                 (i) identify how the selected carbon-free energy  
17                 resources satisfy the public interest criteria  
18                 described in this paragraph (3) of minimizing carbon  
19                 dioxide emissions that result from electricity  
20                 consumed in Illinois and minimizing sulfur dioxide,  
21                 nitrogen oxide, and particulate matter emissions that  
22                 adversely affect the citizens of this State;

23                 (ii) specifically address how the selection of  
24                 carbon-free energy resources takes into account the  
25                 incremental environmental benefits resulting from the  
26                 procurement, including any existing environmental

1 benefits that are preserved by the procurements held  
2 under this amendatory Act of the 102nd General  
3 Assembly and would have ceased to exist if the  
4 procurements had not been held, such as the  
5 preservation of carbon-free energy resources;

6 (iii) quantify the environmental benefit of  
7 preserving the carbon-free energy resources procured  
8 pursuant to this subsection (d-10), including the  
9 following:

10 (I) an assessment value of avoided greenhouse  
11 gas emissions measured as the product of the  
12 carbon-free energy resources' output over the  
13 contract term, using generally accepted  
14 methodologies for the valuation of avoided  
15 emissions; and

16 (II) an assessment of costs of replacement  
17 with other carbon-free energy resources and  
18 renewable energy resources, including wind and  
19 photovoltaic generation, based upon an assessment  
20 of the prices paid for renewable energy credits  
21 through programs and procurements conducted  
22 pursuant to subsection (c) of Section 1-75 of this  
23 Act, and the additional storage necessary to  
24 produce the same or similar capability of matching  
25 customer usage patterns.

26 (F) The procurements described in this paragraph (3),

1 including, but not limited to, the execution of all  
2 contracts procured, shall be completed no later than  
3 December 3, 2021. The procurement and plan approval  
4 processes required by this paragraph (3) shall be  
5 conducted in conjunction with the procurement and plan  
6 approval processes required by Section 16-111.5 of the  
7 Public Utilities Act, to the extent practicable. However,  
8 the Agency and Commission may, as appropriate, modify the  
9 various dates and timelines under this subparagraph and  
10 subparagraphs (D) and (E) of this paragraph (3) to meet  
11 the December 3, 2021 contract execution deadline.  
12 Following the completion of such procurements, and  
13 consistent with this paragraph (3), the Agency shall  
14 calculate the payments to be made under each contract in a  
15 timely fashion.

16 (F-1) Costs incurred by the electric utility pursuant  
17 to a contract authorized by this subsection (d-10) shall  
18 be deemed prudently incurred and reasonable in amount, and  
19 the electric utility shall be entitled to full cost  
20 recovery pursuant to a tariff or tariffs filed with the  
21 Commission.

22 (G) The counterparty electric utility shall retire all  
23 carbon mitigation credits used to comply with the  
24 requirements of this subsection (d-10).

25 (H) If a carbon-free energy resource is sold to  
26 another owner, the rights, obligations, and commitments

1 under this subsection (d-10) shall continue to the  
2 subsequent owner.

3 (I) This subsection (d-10) shall become inoperative on  
4 January 1, 2028.

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

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

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

15 (h) The Agency shall assess fees to each bidder to recover  
16 the costs incurred in connection with a competitive  
17 procurement process.

18 (i) A renewable energy credit, carbon emission credit,  
19 zero emission credit, or carbon mitigation credit can only be  
20 used once to comply with a single portfolio or other standard  
21 as set forth in subsection (c), subsection (d), or subsection  
22 (d-5) of this Section, respectively. A renewable energy  
23 credit, carbon emission credit, zero emission credit, or  
24 carbon mitigation credit cannot be used to satisfy the  
25 requirements of more than one standard. If more than one type  
26 of credit is issued for the same megawatt hour of energy, only

1 one credit can be used to satisfy the requirements of a single  
2 standard. After such use, the credit must be retired together  
3 with any other credits issued for the same megawatt hour of  
4 energy.

5 (Source: P.A. 102-662, eff. 9-15-21; 103-380, eff. 1-1-24;  
6 103-580, eff. 12-8-23.)

7 Section 99. Effective date. This Act takes effect upon  
8 becoming law.