



Rep. Jay Hoffman

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LRB103 39335 CES 70910 a

1 AMENDMENT TO HOUSE BILL 5514

2 AMENDMENT NO. _____. Amend House Bill 5514 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Power Agency Act is amended by
5 changing Sections 1-5, 1-10, 1-20, and 1-75 as follows:

6 (20 ILCS 3855/1-5)

7 Sec. 1-5. Legislative declarations and findings. The
8 General Assembly finds and declares:

9 (1) The health, welfare, and prosperity of all
10 Illinois residents require the provision of adequate,
11 reliable, affordable, efficient, and environmentally
12 sustainable electric service at the lowest total cost over
13 time, taking into account any benefits of price stability.

14 (1.5) To provide the highest quality of life for the
15 residents of Illinois and to provide for a clean and
16 healthy environment, it is the policy of this State to

1 rapidly transition to 100% clean energy by 2050.

2 (2) (Blank).

3 (3) (Blank).

4 (4) It is necessary to improve the process of
5 procuring electricity to serve Illinois residents, to
6 promote investment in energy efficiency and
7 demand-response measures, and to maintain and support
8 development of clean coal technologies, generation
9 resources that operate at all hours of the day and under
10 all weather conditions, zero emission facilities, and
11 renewable resources.

12 (5) Procuring a diverse electricity supply portfolio
13 will ensure the lowest total cost over time for adequate,
14 reliable, efficient, and environmentally sustainable
15 electric service.

16 (6) Including renewable resources and zero emission
17 credits from zero emission facilities in that portfolio
18 will reduce long-term direct and indirect costs to
19 consumers by decreasing environmental impacts and by
20 avoiding or delaying the need for new generation,
21 transmission, and distribution infrastructure. Developing
22 new renewable energy resources in Illinois, including
23 brownfield solar projects and community solar projects,
24 will help to diversify Illinois electricity supply, avoid
25 and reduce pollution, reduce peak demand, and enhance
26 public health and well-being of Illinois residents.

1 (7) Developing community solar projects in Illinois
2 will help to expand access to renewable energy resources
3 to more Illinois residents.

4 (8) Developing brownfield solar projects in Illinois
5 will help return blighted or contaminated land to
6 productive use while enhancing public health and the
7 well-being of Illinois residents, including those in
8 environmental justice communities.

9 (9) Energy efficiency, demand-response measures, zero
10 emission energy, and renewable energy are resources
11 currently underused in Illinois. These resources should be
12 used, when cost effective, to reduce costs to consumers,
13 improve reliability, and improve environmental quality and
14 public health.

15 (10) The State should encourage the use of advanced
16 clean coal technologies that capture and sequester carbon
17 dioxide emissions to advance environmental protection
18 goals and to demonstrate the viability of coal and
19 coal-derived fuels in a carbon-constrained economy.

20 (10.5) The State should encourage the development of
21 interregional high voltage direct current (HVDC)
22 transmission lines that benefit Illinois. All ratepayers
23 in the State served by the regional transmission
24 organization where the HVDC converter station is
25 interconnected benefit from the long-term price stability
26 and market access provided by interregional HVDC

1 transmission facilities. The benefits to Illinois include:
2 reduction in wholesale power prices; access to lower-cost
3 markets; enabling the integration of additional renewable
4 generating units within the State through near
5 instantaneous dispatchability and the provision of
6 ancillary services; creating good-paying union jobs in
7 Illinois; and, enhancing grid reliability and climate
8 resilience via HVDC facilities that are installed
9 underground.

10 (10.6) The health, welfare, and safety of the people
11 of the State are advanced by developing new HVDC
12 transmission lines predominantly along transportation
13 rights-of-way, with an HVDC converter station that is
14 located in the service territory of a public utility as
15 defined in Section 3-105 of the Public Utilities Act
16 serving more than 3,000,000 retail customers, and with a
17 project labor agreement as defined in Section 1-10 of this
18 Act.

19 (10.8) Procurement of renewable resources transmitted
20 over new HVDC transmission lines benefits all ratepayers
21 by decarbonizing the Illinois economy and providing as
22 much as 17,958,000 megawatt-hours of diversified renewable
23 energy resources annually while improving reliability
24 through fully dispatchable high voltage direct current
25 transmission facilities that cannot be provided through
26 development of local renewable generation or transmission

1 alone. Furthermore, procurement of energy resources
2 transmitted over new HVDC transmission lines will ensure
3 sufficient energy availability as legacy fossil fuel
4 generation is retired under subsection (g) of Section 9.15
5 of the Environmental Protection Act.

6 (11) The General Assembly enacted Public Act 96-0795
7 to reform the State's purchasing processes, recognizing
8 that government procurement is susceptible to abuse if
9 structural and procedural safeguards are not in place to
10 ensure independence, insulation, oversight, and
11 transparency.

12 (12) The principles that underlie the procurement
13 reform legislation apply also in the context of power
14 purchasing.

15 (13) To ensure that the benefits of installing
16 renewable resources are available to all Illinois
17 residents and located across the State, subject to
18 appropriation, it is necessary for the Agency to provide
19 public information and educational resources on how
20 residents can benefit from the expansion of renewable
21 energy in Illinois and participate in the Illinois Solar
22 for All Program established in Section 1-56, the
23 Adjustable Block program established in Section 1-75, the
24 job training programs established by paragraph (1) of
25 subsection (a) of Section 16-108.12 of the Public
26 Utilities Act, and the programs and resources established

1 by the Energy Transition Act.

2 The General Assembly therefore finds that it is necessary
3 to create the Illinois Power Agency and that the goals and
4 objectives of that Agency are to accomplish each of the
5 following:

6 (A) Develop electricity procurement plans to ensure
7 adequate, reliable, affordable, efficient, and
8 environmentally sustainable electric service at the lowest
9 total cost over time, taking into account any benefits of
10 price stability, for electric utilities that on December
11 31, 2005 provided electric service to at least 100,000
12 customers in Illinois and for small multi-jurisdictional
13 electric utilities that (i) on December 31, 2005 served
14 less than 100,000 customers in Illinois and (ii) request a
15 procurement plan for their Illinois jurisdictional load.
16 The procurement plan shall be updated on an annual basis
17 and shall include renewable energy resources and,
18 beginning with the delivery year commencing June 1, 2017,
19 zero emission credits from zero emission facilities
20 sufficient to achieve the standards specified in this Act.

21 (B) Conduct the competitive procurement processes
22 identified in this Act.

23 (C) Develop electric generation and co-generation
24 facilities that use indigenous coal or renewable
25 resources, or both, financed with bonds issued by the
26 Illinois Finance Authority.

1 (D) Supply electricity from the Agency's facilities at
2 cost to one or more of the following: municipal electric
3 systems, governmental aggregators, or rural electric
4 cooperatives in Illinois.

5 (E) Ensure that the process of power procurement is
6 conducted in an ethical and transparent fashion, immune
7 from improper influence.

8 (F) Continue to review its policies and practices to
9 determine how best to meet its mission of providing the
10 lowest cost power to the greatest number of people, at any
11 given point in time, in accordance with applicable law.

12 (G) Operate in a structurally insulated, independent,
13 and transparent fashion so that nothing impedes the
14 Agency's mission to secure power at the best prices the
15 market will bear, provided that the Agency meets all
16 applicable legal requirements.

17 (H) Implement renewable energy procurement and
18 training programs throughout the State to diversify
19 Illinois electricity supply, improve reliability, avoid
20 and reduce pollution, reduce peak demand, and enhance
21 public health and well-being of Illinois residents,
22 including low-income residents.

23 (I) Implement procurement of the components of high
24 voltage direct current renewable energy credits.

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

1 (20 ILCS 3855/1-10)

2 Sec. 1-10. Definitions.

3 "Agency" means the Illinois Power Agency.

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

12 "Authority" means the Illinois Finance Authority.

13 "Board" means the Capital Development Board.

14 "Brownfield site photovoltaic project" means photovoltaics
15 that are either:

16 (1) interconnected to an electric utility as defined
17 in this Section, a municipal utility as defined in this
18 Section, a public utility as defined in Section 3-105 of
19 the Public Utilities Act, or an electric cooperative as
20 defined in Section 3-119 of the Public Utilities Act and
21 located at a site that is regulated by any of the following
22 entities under the following programs:

23 (A) the United States Environmental Protection
24 Agency under the federal Comprehensive Environmental
25 Response, Compensation, and Liability Act of 1980, as
26 amended;

1 (B) the United States Environmental Protection
2 Agency under the Corrective Action Program of the
3 federal Resource Conservation and Recovery Act, as
4 amended;

5 (C) the Illinois Environmental Protection Agency
6 under the Illinois Site Remediation Program; or

7 (D) the Illinois Environmental Protection Agency
8 under the Illinois Solid Waste Program; or

9 (2) located at the site of a coal mine that has
10 permanently ceased coal production, permanently halted any
11 re-mining operations, and is no longer accepting any coal
12 combustion residues; has both completed all clean-up and
13 remediation obligations under the federal Surface Mining
14 and Reclamation Act of 1977 and all applicable Illinois
15 rules and any other clean-up, remediation, or ongoing
16 monitoring to safeguard the health and well-being of the
17 people of the State of Illinois, as well as demonstrated
18 compliance with all applicable federal and State
19 environmental rules and regulations, including, but not
20 limited, to 35 Ill. Adm. Code Part 845 and any rules for
21 historic fill of coal combustion residuals, including any
22 rules finalized in Subdocket A of Illinois Pollution
23 Control Board docket R2020-019.

24 "Clean coal facility" means an electric generating
25 facility that uses primarily coal as a feedstock and that
26 captures and sequesters carbon dioxide emissions at the

1 following levels: at least 50% of the total carbon dioxide
2 emissions that the facility would otherwise emit if, at the
3 time construction commences, the facility is scheduled to
4 commence operation before 2016, at least 70% of the total
5 carbon dioxide emissions that the facility would otherwise
6 emit if, at the time construction commences, the facility is
7 scheduled to commence operation during 2016 or 2017, and at
8 least 90% of the total carbon dioxide emissions that the
9 facility would otherwise emit if, at the time construction
10 commences, the facility is scheduled to commence operation
11 after 2017. The power block of the clean coal facility shall
12 not exceed allowable emission rates for sulfur dioxide,
13 nitrogen oxides, carbon monoxide, particulates and mercury for
14 a natural gas-fired combined-cycle facility the same size as
15 and in the same location as the clean coal facility at the time
16 the clean coal facility obtains an approved air permit. All
17 coal used by a clean coal facility shall have high volatile
18 bituminous rank and greater than 1.7 pounds of sulfur per
19 million Btu content, unless the clean coal facility does not
20 use gasification technology and was operating as a
21 conventional coal-fired electric generating facility on June
22 1, 2009 (the effective date of Public Act 95-1027).

23 "Clean coal SNG brownfield facility" means a facility that
24 (1) has commenced construction by July 1, 2015 on an urban
25 brownfield site in a municipality with at least 1,000,000
26 residents; (2) uses a gasification process to produce

1 substitute natural gas; (3) uses coal as at least 50% of the
2 total feedstock over the term of any sourcing agreement with a
3 utility and the remainder of the feedstock may be either
4 petroleum coke or coal, with all such coal having a high
5 bituminous rank and greater than 1.7 pounds of sulfur per
6 million Btu content unless the facility reasonably determines
7 that it is necessary to use additional petroleum coke to
8 deliver additional consumer savings, in which case the
9 facility shall use coal for at least 35% of the total feedstock
10 over the term of any sourcing agreement; and (4) captures and
11 sequesters at least 85% of the total carbon dioxide emissions
12 that the facility would otherwise emit.

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

26 "Clean energy" means energy generation that is 90% or

1 greater free of carbon dioxide emissions.

2 "Commission" means the Illinois Commerce Commission.

3 "Community renewable generation project" means an electric
4 generating facility that:

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

9 (2) is interconnected at the distribution system level
10 of an electric utility as defined in this Section, a
11 municipal utility as defined in this Section that owns or
12 operates electric distribution facilities, a public
13 utility as defined in Section 3-105 of the Public
14 Utilities Act, or an electric cooperative, as defined in
15 Section 3-119 of the Public Utilities Act;

16 (3) credits the value of electricity generated by the
17 facility to the subscribers of the facility; and

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

20 "Costs incurred in connection with the development and
21 construction of a facility" means:

22 (1) the cost of acquisition of all real property,
23 fixtures, and improvements in connection therewith and
24 equipment, personal property, and other property, rights,
25 and easements acquired that are deemed necessary for the
26 operation and maintenance of the facility;

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

3 (3) all origination, commitment, utilization,
4 facility, placement, underwriting, syndication, credit
5 enhancement, and rating agency fees;

6 (4) engineering, design, procurement, consulting,
7 legal, accounting, title insurance, survey, appraisal,
8 escrow, trustee, collateral agency, interest rate hedging,
9 interest rate swap, capitalized interest, contingency, as
10 required by lenders, and other financing costs, and other
11 expenses for professional services; and

12 (5) the costs of plans, specifications, site study and
13 investigation, installation, surveys, other Agency costs
14 and estimates of costs, and other expenses necessary or
15 incidental to determining the feasibility of any project,
16 together with such other expenses as may be necessary or
17 incidental to the financing, insuring, acquisition, and
18 construction of a specific project and starting up,
19 commissioning, and placing that project in operation.

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

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

25 "Department" means the Department of Commerce and Economic
26 Opportunity.

1 "Director" means the Director of the Illinois Power
2 Agency.

3 "Demand-response" means measures that decrease peak
4 electricity demand or shift demand from peak to off-peak
5 periods.

6 "Distributed renewable energy generation device" means a
7 device that is:

8 (1) powered by wind, solar thermal energy,
9 photovoltaic cells or panels, biodiesel, crops and
10 untreated and unadulterated organic waste biomass, tree
11 waste, and hydropower that does not involve new
12 construction of dams, waste heat to power systems, or
13 qualified combined heat and power systems;

14 (2) interconnected at the distribution system level of
15 either an electric utility as defined in this Section, a
16 municipal utility as defined in this Section that owns or
17 operates electric distribution facilities, or a rural
18 electric cooperative as defined in Section 3-119 of the
19 Public Utilities Act;

20 (3) located on the customer side of the customer's
21 electric meter and is primarily used to offset that
22 customer's electricity load; and

23 (4) (blank).

24 "Energy efficiency" means measures that reduce the amount
25 of electricity or natural gas consumed in order to achieve a
26 given end use. "Energy efficiency" includes voltage

1 optimization measures that optimize the voltage at points on
2 the electric distribution voltage system and thereby reduce
3 electricity consumption by electric customers' end use
4 devices. "Energy efficiency" also includes measures that
5 reduce the total Btus of electricity, natural gas, and other
6 fuels needed to meet the end use or uses.

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

9 "Equity investment eligible community" or "eligible
10 community" are synonymous and mean the geographic areas
11 throughout Illinois which would most benefit from equitable
12 investments by the State designed to combat discrimination.
13 Specifically, the eligible communities shall be defined as the
14 following areas:

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

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

25 "Equity eligible persons" or "eligible persons" means
26 persons who would most benefit from equitable investments by

1 the State designed to combat discrimination, specifically:

2 (1) persons who graduate from or are current or former
3 participants in the Clean Jobs Workforce Network Program,
4 the Clean Energy Contractor Incubator Program, the
5 Illinois Climate Works Preapprenticeship Program,
6 Returning Residents Clean Jobs Training Program, or the
7 Clean Energy Primes Contractor Accelerator Program, and
8 the solar training pipeline and multi-cultural jobs
9 program created in paragraphs (a) (1) and (a) (3) of Section
10 16-208.12 of the Public Utilities Act;

11 (2) persons who are graduates of or currently enrolled
12 in the foster care system;

13 (3) persons who were formerly incarcerated;

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

16 "Equity eligible contractor" means a business that is
17 majority-owned by eligible persons, or a nonprofit or
18 cooperative that is majority-governed by eligible persons, or
19 is a natural person that is an eligible person offering
20 personal services as an independent contractor.

21 "Facility" means an electric generating unit or a
22 co-generating unit that produces electricity along with
23 related equipment necessary to connect the facility to an
24 electric transmission or distribution system.

25 "General contractor" means the entity or organization with
26 main responsibility for the building of a construction project

1 and who is the party signing the prime construction contract
2 for the project.

3 "Governmental aggregator" means one or more units of local
4 government that individually or collectively procure
5 electricity to serve residential retail electrical loads
6 located within its or their jurisdiction.

7 "High voltage direct current converter station" means the
8 collection of equipment that converts direct current energy
9 from a high voltage direct current transmission line into
10 alternating current using Voltage Source Conversion technology
11 and that is interconnected with transmission or distribution
12 assets located in Illinois.

13 "High voltage direct current renewable energy credit"
14 means a product with 2 components: (1) a renewable energy
15 credit associated with a renewable energy resource where the
16 renewable energy resource has entered into a contract to
17 transmit the energy associated with such renewable energy
18 credit over high voltage direct current transmission
19 facilities and (2) the rights to transmit the associated
20 energy over the high voltage direct current transmission line.

21 "High voltage direct current transmission facilities"
22 means the collection of installed equipment that converts
23 alternating current energy in one location to direct current
24 and transmits that direct current energy to a high voltage
25 direct current converter station using Voltage Source
26 Conversion technology. "High voltage direct current

1 transmission facilities" includes the high voltage direct
2 current converter station itself and associated high voltage
3 direct current transmission lines. Notwithstanding the
4 preceding, after September 15, 2021 (the effective date of
5 Public Act 102-662), an otherwise qualifying collection of
6 equipment does not qualify as high voltage direct current
7 transmission facilities unless: (i) its developer entered into
8 a project labor agreement, (ii) more than 100 miles of its
9 Illinois footprint are built underground, (iii) the facilities
10 are ~~is~~ capable of transmitting electricity at 525kv or above,
11 (iv) the facilities include ~~with~~ an Illinois converter station
12 physically located in, and interconnected in, the Illinois
13 footprint ~~region of the~~ PJM Interconnection, LLC, and (v) the
14 system does not operate as a public utility in Illinois, as
15 that term is defined in Section 3-105 of the Public Utilities
16 Act.

17 "Hydropower" means any method of electricity generation or
18 storage that results from the flow of water, including
19 impoundment facilities, diversion facilities, and pumped
20 storage facilities.

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

24 "Indexed renewable energy credit" means a tradable credit
25 that represents the environmental attributes of one megawatt
26 hour of energy produced from a renewable energy resource, the

1 price of which shall be calculated by subtracting the strike
2 price offered by a new utility-scale wind project or a new
3 utility-scale photovoltaic project from the index price in a
4 given settlement period.

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

8 "Local government" means a unit of local government as
9 defined in Section 1 of Article VII of the Illinois
10 Constitution.

11 "Modernized" or "retooled" means the construction, repair,
12 maintenance, or significant expansion of turbines and existing
13 hydropower dams.

14 "Municipality" means a city, village, or incorporated
15 town.

16 "Municipal utility" means a public utility owned and
17 operated by any subdivision or municipal corporation of this
18 State.

19 "Nameplate capacity" means the aggregate inverter
20 nameplate capacity in kilowatts AC.

21 "Person" means any natural person, firm, partnership,
22 corporation, either domestic or foreign, company, association,
23 limited liability company, joint stock company, or association
24 and includes any trustee, receiver, assignee, or personal
25 representative thereof.

26 "Project" means the planning, bidding, and construction of

1 a facility.

2 "Project labor agreement" means a pre-hire collective
3 bargaining agreement that covers all terms and conditions of
4 employment on a specific construction project and must include
5 the following:

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

8 (2) provisions establishing the benefits and other
9 compensation for each class of labor organization
10 employee;

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

13 (4) provisions establishing that no lockout or
14 disputes will be engaged in by the general contractor
15 building the project; and

16 (5) provisions for minorities and women, as defined
17 under the Business Enterprise for Minorities, Women, and
18 Persons with Disabilities Act, setting forth goals for
19 apprenticeship hours to be performed by minorities and
20 women and setting forth goals for total hours to be
21 performed by underrepresented minorities and women.

22 A labor organization and the general contractor building
23 the project shall have the authority to include other terms
24 and conditions as they deem necessary.

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

1 "Qualified combined heat and power systems" means systems
2 that, either simultaneously or sequentially, produce
3 electricity and useful thermal energy from a single fuel
4 source. Such systems are eligible for "renewable energy
5 credits" in an amount equal to its total energy output where a
6 renewable fuel is consumed or in an amount equal to the net
7 reduction in nonrenewable fuel consumed on a total energy
8 output basis.

9 "Real property" means any interest in land together with
10 all structures, fixtures, and improvements thereon, including
11 lands under water and riparian rights, any easements,
12 covenants, licenses, leases, rights-of-way, uses, and other
13 interests, together with any liens, judgments, mortgages, or
14 other claims or security interests related to real property.

15 "Renewable energy credit" means a tradable credit that
16 represents the environmental attributes of one megawatt hour
17 of energy produced from a renewable energy resource.

18 "Renewable energy resources" includes energy and its
19 associated renewable energy credit or renewable energy credits
20 from wind, solar thermal energy, photovoltaic cells and
21 panels, biodiesel, anaerobic digestion, crops and untreated
22 and unadulterated organic waste biomass, and hydropower that
23 does not involve new construction of dams, waste heat to power
24 systems, or qualified combined heat and power systems. For
25 purposes of this Act, landfill gas produced in the State is
26 considered a renewable energy resource. "Renewable energy

1 resources" does not include the incineration or burning of
2 tires, garbage, general household, institutional, and
3 commercial waste, industrial lunchroom or office waste,
4 landscape waste, railroad crossties, utility poles, or
5 construction or demolition debris, other than untreated and
6 unadulterated waste wood. "Renewable energy resources" also
7 includes high voltage direct current renewable energy credits
8 and the associated energy converted to alternating current by
9 a high voltage direct current converter station to the extent
10 that: (1) the generator of such renewable energy resource
11 contracted with a third party to transmit the energy over the
12 high voltage direct current transmission facilities, and (2)
13 the third-party contracting for delivery of renewable energy
14 resources over the high voltage direct current transmission
15 facilities have ownership rights over the unretired associated
16 high voltage direct current renewable energy credit.

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

19 "Revenue bond" means any bond, note, or other evidence of
20 indebtedness issued by the Authority, the principal and
21 interest of which is payable solely from revenues or income
22 derived from any project or activity of the Agency.

23 "Sequester" means permanent storage of carbon dioxide by
24 injecting it into a saline aquifer, a depleted gas reservoir,
25 or an oil reservoir, directly or through an enhanced oil
26 recovery process that may involve intermediate storage,

1 regardless of whether these activities are conducted by a
2 clean coal facility, a clean coal SNG facility, a clean coal
3 SNG brownfield facility, or a party with which a clean coal
4 facility, clean coal SNG facility, or clean coal SNG
5 brownfield facility has contracted for such purposes.

6 "Service area" has the same definition as found in Section
7 16-102 of the Public Utilities Act.

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

11 "Sourcing agreement" means (i) in the case of an electric
12 utility, an agreement between the owner of a clean coal
13 facility and such electric utility, which agreement shall have
14 terms and conditions meeting the requirements of paragraph (3)
15 of subsection (d) of Section 1-75, (ii) in the case of an
16 alternative retail electric supplier, an agreement between the
17 owner of a clean coal facility and such alternative retail
18 electric supplier, which agreement shall have terms and
19 conditions meeting the requirements of Section 16-115(d) (5) of
20 the Public Utilities Act, and (iii) in case of a gas utility,
21 an agreement between the owner of a clean coal SNG brownfield
22 facility and the gas utility, which agreement shall have the
23 terms and conditions meeting the requirements of subsection
24 (h-1) of Section 9-220 of the Public Utilities Act.

25 "Strike price" means a contract price for energy and
26 renewable energy credits from a new utility-scale wind project

1 or a new utility-scale photovoltaic project.

2 "Subscriber" means a person who (i) takes delivery service
3 from an electric utility, and (ii) has a subscription of no
4 less than 200 watts to a community renewable generation
5 project that is located in the electric utility's service
6 area. No subscriber's subscriptions may total more than 40% of
7 the nameplate capacity of an individual community renewable
8 generation project. Entities that are affiliated by virtue of
9 a common parent shall not represent multiple subscriptions
10 that total more than 40% of the nameplate capacity of an
11 individual community renewable generation project.

12 "Subscription" means an interest in a community renewable
13 generation project expressed in kilowatts, which is sized
14 primarily to offset part or all of the subscriber's
15 electricity usage.

16 "Substitute natural gas" or "SNG" means a gas manufactured
17 by gasification of hydrocarbon feedstock, which is
18 substantially interchangeable in use and distribution with
19 conventional natural gas.

20 "Total resource cost test" or "TRC test" means a standard
21 that is met if, for an investment in energy efficiency or
22 demand-response measures, the benefit-cost ratio is greater
23 than one. The benefit-cost ratio is the ratio of the net
24 present value of the total benefits of the program to the net
25 present value of the total costs as calculated over the
26 lifetime of the measures. A total resource cost test compares

1 the sum of avoided electric utility costs, representing the
2 benefits that accrue to the system and the participant in the
3 delivery of those efficiency measures and including avoided
4 costs associated with reduced use of natural gas or other
5 fuels, avoided costs associated with reduced water
6 consumption, and avoided costs associated with reduced
7 operation and maintenance costs, as well as other quantifiable
8 societal benefits, to the sum of all incremental costs of
9 end-use measures that are implemented due to the program
10 (including both utility and participant contributions), plus
11 costs to administer, deliver, and evaluate each demand-side
12 program, to quantify the net savings obtained by substituting
13 the demand-side program for supply resources. In calculating
14 avoided costs of power and energy that an electric utility
15 would otherwise have had to acquire, reasonable estimates
16 shall be included of financial costs likely to be imposed by
17 future regulations and legislation on emissions of greenhouse
18 gases. In discounting future societal costs and benefits for
19 the purpose of calculating net present values, a societal
20 discount rate based on actual, long-term Treasury bond yields
21 should be used. Notwithstanding anything to the contrary, the
22 TRC test shall not include or take into account a calculation
23 of market price suppression effects or demand reduction
24 induced price effects.

25 "Utility-scale solar project" means an electric generating
26 facility that:

1 (1) generates electricity using photovoltaic cells;
2 and

3 (2) has a nameplate capacity that is greater than
4 5,000 kilowatts.

5 "Utility-scale wind project" means an electric generating
6 facility that:

7 (1) generates electricity using wind; and

8 (2) has a nameplate capacity that is greater than
9 5,000 kilowatts.

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

13 "Zero emission credit" means a tradable credit that
14 represents the environmental attributes of one megawatt hour
15 of energy produced from a zero emission facility.

16 "Zero emission facility" means a facility that: (1) is
17 fueled by nuclear power; and (2) is interconnected with PJM
18 Interconnection, LLC or the Midcontinent Independent System
19 Operator, Inc., or their successors.

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

22 (20 ILCS 3855/1-20)

23 Sec. 1-20. General powers and duties of the Agency.

24 (a) The Agency is authorized to do each of the following:

25 (1) Develop electricity procurement plans to ensure

1 adequate, reliable, affordable, efficient, and
2 environmentally sustainable electric service at the lowest
3 total cost over time, taking into account any benefits of
4 price stability, for electric utilities that on December
5 31, 2005 provided electric service to at least 100,000
6 customers in Illinois and for small multi-jurisdictional
7 electric utilities that (A) on December 31, 2005 served
8 less than 100,000 customers in Illinois and (B) request a
9 procurement plan for their Illinois jurisdictional load.
10 Except as provided in paragraph (1.5) of this subsection
11 (a), the electricity procurement plans shall be updated on
12 an annual basis and shall include electricity generated
13 from renewable resources sufficient to achieve the
14 standards specified in this Act. Beginning with the
15 delivery year commencing June 1, 2017, develop procurement
16 plans to include zero emission credits generated from zero
17 emission facilities sufficient to achieve the standards
18 specified in this Act. Beginning with the delivery year
19 commencing on June 1, 2022, the Agency is authorized to
20 develop carbon mitigation credit procurement plans to
21 include carbon mitigation credits generated from
22 carbon-free energy resources sufficient to achieve the
23 standards specified in this Act.

24 (1.5) Develop a long-term renewable resources
25 procurement plan in accordance with subsection (c) of
26 Section 1-75 of this Act for renewable energy credits in

1 amounts sufficient to achieve the standards specified in
2 this Act for delivery years commencing June 1, 2017 and
3 for the programs and renewable energy credits specified in
4 Section 1-56 of this Act. Electricity procurement plans
5 for delivery years commencing after May 31, 2017, shall
6 not include procurement of renewable energy resources.

7 (1.7) Develop a high voltage direct current renewable
8 energy credit procurement in accordance with subsection
9 (c-7) of Section 1-75 of this Act for high voltage direct
10 current renewable energy credits for delivery starting on
11 or about June 1, 2029, or as otherwise provided in this Act
12 for at least 25 years, or as otherwise permitted under
13 that subsection.

14 (2) Conduct competitive procurement processes to
15 procure the supply resources identified in the electricity
16 procurement plan, pursuant to Section 16-111.5 of the
17 Public Utilities Act, and, for the delivery year
18 commencing June 1, 2017, conduct procurement processes to
19 procure zero emission credits from zero emission
20 facilities, under subsection (d-5) of Section 1-75 of this
21 Act. For the delivery year commencing June 1, 2022, the
22 Agency is authorized to conduct procurement processes to
23 procure carbon mitigation credits from carbon-free energy
24 resources, under subsection (d-10) of Section 1-75 of this
25 Act.

26 (2.5) Beginning with the procurement for the 2017

1 delivery year, conduct competitive procurement processes
2 and implement programs to procure renewable energy credits
3 identified in the long-term renewable resources
4 procurement plan developed and approved under subsection
5 (c) of Section 1-75 of this Act and Section 16-111.5 of the
6 Public Utilities Act.

7 (2.10) Oversee the procurement by electric utilities
8 that served more than 300,000 customers in this State as
9 of January 1, 2019 of renewable energy credits from new
10 renewable energy facilities to be installed, along with
11 energy storage facilities, at or adjacent to the sites of
12 electric generating facilities that burned coal as their
13 primary fuel source as of January 1, 2016 in accordance
14 with subsection (c-5) of Section 1-75 of this Act.

15 (2.15) Oversee the procurement by electric utilities
16 of renewable energy credits from newly modernized or
17 retooled hydropower dams or dams that have been converted
18 to support hydropower generation.

19 (3) Develop electric generation and co-generation
20 facilities that use indigenous coal or renewable
21 resources, or both, financed with bonds issued by the
22 Illinois Finance Authority.

23 (4) Supply electricity from the Agency's facilities at
24 cost to one or more of the following: municipal electric
25 systems, governmental aggregators, or rural electric
26 cooperatives in Illinois.

1 (b) Except as otherwise limited by this Act, the Agency
2 has all of the powers necessary or convenient to carry out the
3 purposes and provisions of this Act, including without
4 limitation, each of the following:

5 (1) To have a corporate seal, and to alter that seal at
6 pleasure, and to use it by causing it or a facsimile to be
7 affixed or impressed or reproduced in any other manner.

8 (2) To use the services of the Illinois Finance
9 Authority necessary to carry out the Agency's purposes.

10 (3) To negotiate and enter into loan agreements and
11 other agreements with the Illinois Finance Authority.

12 (4) To obtain and employ personnel and hire
13 consultants that are necessary to fulfill the Agency's
14 purposes, and to make expenditures for that purpose within
15 the appropriations for that purpose.

16 (5) To purchase, receive, take by grant, gift, devise,
17 bequest, or otherwise, lease, or otherwise acquire, own,
18 hold, improve, employ, use, and otherwise deal in and
19 with, real or personal property whether tangible or
20 intangible, or any interest therein, within the State.

21 (6) To acquire real or personal property, whether
22 tangible or intangible, including without limitation
23 property rights, interests in property, franchises,
24 obligations, contracts, and debt and equity securities,
25 and to do so by the exercise of the power of eminent domain
26 in accordance with Section 1-21; except that any real

1 property acquired by the exercise of the power of eminent
2 domain must be located within the State.

3 (7) To sell, convey, lease, exchange, transfer,
4 abandon, or otherwise dispose of, or mortgage, pledge, or
5 create a security interest in, any of its assets,
6 properties, or any interest therein, wherever situated.

7 (8) To purchase, take, receive, subscribe for, or
8 otherwise acquire, hold, make a tender offer for, vote,
9 employ, sell, lend, lease, exchange, transfer, or
10 otherwise dispose of, mortgage, pledge, or grant a
11 security interest in, use, and otherwise deal in and with,
12 bonds and other obligations, shares, or other securities
13 (or interests therein) issued by others, whether engaged
14 in a similar or different business or activity.

15 (9) To make and execute agreements, contracts, and
16 other instruments necessary or convenient in the exercise
17 of the powers and functions of the Agency under this Act,
18 including contracts with any person, including personal
19 service contracts, or with any local government, State
20 agency, or other entity; and all State agencies and all
21 local governments are authorized to enter into and do all
22 things necessary to perform any such agreement, contract,
23 or other instrument with the Agency. No such agreement,
24 contract, or other instrument shall exceed 40 years.

25 (10) To lend money, invest and reinvest its funds in
26 accordance with the Public Funds Investment Act, and take

1 and hold real and personal property as security for the
2 payment of funds loaned or invested.

3 (11) To borrow money at such rate or rates of interest
4 as the Agency may determine, issue its notes, bonds, or
5 other obligations to evidence that indebtedness, and
6 secure any of its obligations by mortgage or pledge of its
7 real or personal property, machinery, equipment,
8 structures, fixtures, inventories, revenues, grants, and
9 other funds as provided or any interest therein, wherever
10 situated.

11 (12) To enter into agreements with the Illinois
12 Finance Authority to issue bonds whether or not the income
13 therefrom is exempt from federal taxation.

14 (13) To procure insurance against any loss in
15 connection with its properties or operations in such
16 amount or amounts and from such insurers, including the
17 federal government, as it may deem necessary or desirable,
18 and to pay any premiums therefor.

19 (14) To negotiate and enter into agreements with
20 trustees or receivers appointed by United States
21 bankruptcy courts or federal district courts or in other
22 proceedings involving adjustment of debts and authorize
23 proceedings involving adjustment of debts and authorize
24 legal counsel for the Agency to appear in any such
25 proceedings.

26 (15) To file a petition under Chapter 9 of Title 11 of

1 the United States Bankruptcy Code or take other similar
2 action for the adjustment of its debts.

3 (16) To enter into management agreements for the
4 operation of any of the property or facilities owned by
5 the Agency.

6 (17) To enter into an agreement to transfer and to
7 transfer any land, facilities, fixtures, or equipment of
8 the Agency to one or more municipal electric systems,
9 governmental aggregators, or rural electric agencies or
10 cooperatives, for such consideration and upon such terms
11 as the Agency may determine to be in the best interest of
12 the residents of Illinois.

13 (18) To enter upon any lands and within any building
14 whenever in its judgment it may be necessary for the
15 purpose of making surveys and examinations to accomplish
16 any purpose authorized by this Act.

17 (19) To maintain an office or offices at such place or
18 places in the State as it may determine.

19 (20) To request information, and to make any inquiry,
20 investigation, survey, or study that the Agency may deem
21 necessary to enable it effectively to carry out the
22 provisions of this Act.

23 (21) To accept and expend appropriations.

24 (22) To engage in any activity or operation that is
25 incidental to and in furtherance of efficient operation to
26 accomplish the Agency's purposes, including hiring

1 employees that the Director deems essential for the
2 operations of the Agency.

3 (23) To adopt, revise, amend, and repeal rules with
4 respect to its operations, properties, and facilities as
5 may be necessary or convenient to carry out the purposes
6 of this Act, subject to the provisions of the Illinois
7 Administrative Procedure Act and Sections 1-22 and 1-35 of
8 this Act.

9 (24) To establish and collect charges and fees as
10 described in this Act.

11 (25) To conduct competitive gasification feedstock
12 procurement processes to procure the feedstocks for the
13 clean coal SNG brownfield facility in accordance with the
14 requirements of Section 1-78 of this Act.

15 (26) To review, revise, and approve sourcing
16 agreements and mediate and resolve disputes between gas
17 utilities and the clean coal SNG brownfield facility
18 pursuant to subsection (h-1) of Section 9-220 of the
19 Public Utilities Act.

20 (27) To request, review and accept proposals, execute
21 contracts, purchase renewable energy credits and otherwise
22 dedicate funds from the Illinois Power Agency Renewable
23 Energy Resources Fund to create and carry out the
24 objectives of the Illinois Solar for All Program in
25 accordance with Section 1-56 of this Act.

26 (28) To ensure Illinois residents and business benefit

1 from programs administered by the Agency and are properly
2 protected from any deceptive or misleading marketing
3 practices by participants in the Agency's programs and
4 procurements.

5 (c) In conducting the procurement of electricity or other
6 products, beginning January 1, 2022, the Agency shall not
7 procure any products or services from persons or organizations
8 that are in violation of the Displaced Energy Workers Bill of
9 Rights, as provided under the Energy Community Reinvestment
10 Act at the time of the procurement event or fail to comply the
11 labor standards established in subparagraph (Q) of paragraph
12 (1) of subsection (c) of Section 1-75.

13 (Source: P.A. 102-662, eff. 9-15-21; 103-380, eff. 1-1-24.)

14 (20 ILCS 3855/1-75)

15 Sec. 1-75. Planning and Procurement Bureau. The Planning
16 and Procurement Bureau has the following duties and
17 responsibilities:

18 (a) The Planning and Procurement Bureau shall each year,
19 beginning in 2008, develop procurement plans and conduct
20 competitive procurement processes in accordance with the
21 requirements of Section 16-111.5 of the Public Utilities Act
22 for the eligible retail customers of electric utilities that
23 on December 31, 2005 provided electric service to at least
24 100,000 customers in Illinois. Beginning with the delivery
25 year commencing on June 1, 2017, the Planning and Procurement

1 Bureau shall develop plans and processes for the procurement
2 of zero emission credits from zero emission facilities in
3 accordance with the requirements of subsection (d-5) of this
4 Section. Beginning on the effective date of this amendatory
5 Act of the 102nd General Assembly, the Planning and
6 Procurement Bureau shall develop plans and processes for the
7 procurement of carbon mitigation credits from carbon-free
8 energy resources in accordance with the requirements of
9 subsection (d-10) of this Section. The Planning and
10 Procurement Bureau shall also develop procurement plans and
11 conduct competitive procurement processes in accordance with
12 the requirements of Section 16-111.5 of the Public Utilities
13 Act for the eligible retail customers of small
14 multi-jurisdictional electric utilities that (i) on December
15 31, 2005 served less than 100,000 customers in Illinois and
16 (ii) request a procurement plan for their Illinois
17 jurisdictional load. This Section shall not apply to a small
18 multi-jurisdictional utility until such time as a small
19 multi-jurisdictional utility requests the Agency to prepare a
20 procurement plan for their Illinois jurisdictional load. For
21 the purposes of this Section, the term "eligible retail
22 customers" has the same definition as found in Section
23 16-111.5(a) of the Public Utilities Act.

24 Beginning with the plan or plans to be implemented in the
25 2017 delivery year, the Agency shall no longer include the
26 procurement of renewable energy resources in the annual

1 procurement plans required by this subsection (a), except as
2 provided in subsection (q) of Section 16-111.5 of the Public
3 Utilities Act, and shall instead develop a long-term renewable
4 resources procurement plan in accordance with subsection (c)
5 of this Section and Section 16-111.5 of the Public Utilities
6 Act.

7 In accordance with subsection (c-5) of this Section, the
8 Planning and Procurement Bureau shall oversee the procurement
9 by electric utilities that served more than 300,000 retail
10 customers in this State as of January 1, 2019 of renewable
11 energy credits from new utility-scale solar projects to be
12 installed, along with energy storage facilities, at or
13 adjacent to the sites of electric generating facilities that,
14 as of January 1, 2016, burned coal as their primary fuel
15 source.

16 In accordance with subsection (c-7) of this Section, the
17 Planning and Procurement Bureau shall oversee the procurement
18 of high voltage direct current renewable energy credits by
19 electric utilities that served more than 300,000 retail
20 customers in this State as of January 1, 2019.

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

1 (A) direct previous experience assembling
2 large-scale power supply plans or portfolios for
3 end-use customers;

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

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

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

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

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

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

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

26 (A) direct previous experience administering a

1 large-scale competitive procurement process;

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

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

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

10 (E) expertise in credit and contract protocols;

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

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

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

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

5 (A) failure to satisfy qualification criteria;

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

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

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

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

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

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

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

24 (c) Renewable portfolio standard.

25 (1) (A) The Agency shall develop a long-term renewable
26 resources procurement plan that shall include procurement

1 programs and competitive procurement events necessary to
2 meet the goals set forth in this subsection (c). The
3 initial long-term renewable resources procurement plan
4 shall be released for comment no later than 160 days after
5 June 1, 2017 (the effective date of Public Act 99-906).
6 The Agency shall review, and may revise on an expedited
7 basis, the long-term renewable resources procurement plan
8 at least every 2 years, which shall be conducted in
9 conjunction with the procurement plan under Section
10 16-111.5 of the Public Utilities Act to the extent
11 practicable to minimize administrative expense. No later
12 than 120 days after the effective date of this amendatory
13 Act of the 103rd General Assembly, the Agency shall
14 release for comment a revision to the long-term renewable
15 resources procurement plan, updating elements of the most
16 recently approved plan as needed to comply with this
17 amendatory Act of the 103rd General Assembly, and any
18 long-term renewable resources procurement plan update
19 published by the Agency but not yet approved by the
20 Illinois Commerce Commission shall be withdrawn. The
21 long-term renewable resources procurement plans shall be
22 subject to review and approval by the Commission under
23 Section 16-111.5 of the Public Utilities Act.

24 (B) Subject to subparagraph (F) of this paragraph (1),
25 the long-term renewable resources procurement plan shall
26 attempt to meet the goals for procurement of renewable

1 energy credits at levels of at least the following overall
2 percentages: 13% by the 2017 delivery year; increasing by
3 at least 1.5% each delivery year thereafter to at least
4 25% by the 2025 delivery year; increasing by at least 3%
5 each delivery year thereafter to at least 40% by the 2030
6 delivery year, and continuing at no less than 40% for each
7 delivery year thereafter. The Agency shall attempt to
8 procure 50% by delivery year 2040. The Agency shall
9 determine the annual increase between delivery year 2030
10 and delivery year 2040, if any, taking into account energy
11 demand, other energy resources, and other public policy
12 goals. In the event of a conflict between these goals and
13 the new wind, new photovoltaic, and hydropower procurement
14 requirements described in items (i) through (iii) of
15 subparagraph (C) of this paragraph (1), the long-term plan
16 shall prioritize compliance with the new wind, new
17 photovoltaic, and hydropower procurement requirements
18 described in items (i) through (iii) of subparagraph (C)
19 of this paragraph (1) over the annual percentage targets
20 described in this subparagraph (B). The Agency shall not
21 comply with the annual percentage targets described in
22 this subparagraph (B) by procuring renewable energy
23 credits that are unlikely to lead to the development of
24 new renewable resources or new, modernized, or retooled
25 hydropower facilities.

26 For the delivery year beginning June 1, 2017, the

1 procurement plan shall attempt to include, subject to the
2 prioritization outlined in this subparagraph (B),
3 cost-effective renewable energy resources equal to at
4 least 13% of each utility's load for eligible retail
5 customers and 13% of the applicable portion of each
6 utility's load for retail customers who are not eligible
7 retail customers, which applicable portion shall equal 50%
8 of the utility's load for retail customers who are not
9 eligible retail customers on February 28, 2017.

10 For the delivery year beginning June 1, 2018, the
11 procurement plan shall attempt to include, subject to the
12 prioritization outlined in this subparagraph (B),
13 cost-effective renewable energy resources equal to at
14 least 14.5% of each utility's load for eligible retail
15 customers and 14.5% of the applicable portion of each
16 utility's load for retail customers who are not eligible
17 retail customers, which applicable portion shall equal 75%
18 of the utility's load for retail customers who are not
19 eligible retail customers on February 28, 2017.

20 For the delivery year beginning June 1, 2019, and for
21 each year thereafter, the procurement plans shall attempt
22 to include, subject to the prioritization outlined in this
23 subparagraph (B), cost-effective renewable energy
24 resources equal to a minimum percentage of each utility's
25 load for all retail customers as follows: 16% by June 1,
26 2019; increasing by 1.5% each year thereafter to 25% by

1 June 1, 2025; and 25% by June 1, 2026; increasing by at
2 least 3% each delivery year thereafter to at least 40% by
3 the 2030 delivery year, and continuing at no less than 40%
4 for each delivery year thereafter. The Agency shall
5 attempt to procure 50% by delivery year 2040. The Agency
6 shall determine the annual increase between delivery year
7 2030 and delivery year 2040, if any, taking into account
8 energy demand, other energy resources, and other public
9 policy goals.

10 For each delivery year, the Agency shall first
11 recognize each utility's obligations for that delivery
12 year under existing contracts. Any renewable energy
13 credits under existing contracts, including renewable
14 energy credits as part of renewable energy resources,
15 shall be used to meet the goals set forth in this
16 subsection (c) for the delivery year.

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

21 (i) At least 10,000,000 renewable energy credits
22 delivered annually by the end of the 2021 delivery
23 year, and increasing ratably to reach 45,000,000
24 renewable energy credits delivered annually from new
25 wind and solar projects by the end of delivery year
26 2030 such that the goals in subparagraph (B) of this

1 paragraph (1) are met entirely by procurements of
2 renewable energy credits from new wind and
3 photovoltaic projects. Of that amount, to the extent
4 possible, the Agency shall procure 45% from wind and
5 hydropower projects and 55% from photovoltaic
6 projects. Of the amount to be procured from
7 photovoltaic projects, the Agency shall procure: at
8 least 50% from solar photovoltaic projects using the
9 program outlined in subparagraph (K) of this paragraph
10 (1) from distributed renewable energy generation
11 devices or community renewable generation projects; at
12 least 47% from utility-scale solar projects; at least
13 3% from brownfield site photovoltaic projects that are
14 not community renewable generation projects. High
15 voltage direct current renewable energy credits
16 procured by the Agency pursuant to subsection (c-7) of
17 this Section 1-75 shall count toward the fulfillment
18 of renewable procurement targets set forth in
19 subparagraph (B) of this paragraph (1). High voltage
20 direct current renewable energy credits procured by
21 the Agency pursuant to subsection (c-7) of this
22 Section 1-75 shall not count toward the renewable
23 energy credit purchase targets in this subparagraph
24 (i); however, nothing shall prohibit the Agency from
25 procuring high voltage direct current renewable energy
26 credits under a procurement authorized by this

1 subsection (c) from counting toward the renewable
2 energy credit purchase targets in this subparagraph
3 (i).

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

23 (ii) In any given delivery year, if forecasted
24 expenses are less than the maximum budget available
25 under subparagraph (E) of this paragraph (1), the
26 Agency shall continue to procure new renewable energy

1 credits until that budget is exhausted in the manner
2 outlined in item (i) of this subparagraph (C).

3 (iii) For purposes of this Section:

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

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

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

25 (D) Renewable energy credits shall be cost effective.

26 For purposes of this subsection (c), "cost effective"

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

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

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

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

1 subsequent rate impact determinations shall be made and no
2 adjustments to those contract amounts shall be allowed.
3 All costs incurred under such contracts shall be fully
4 recoverable by the electric utility as provided in this
5 Section.

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

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

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

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

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

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

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

24 (ii) Notwithstanding whether a long-term renewable
25 resources procurement plan has been approved, the
26 Agency shall conduct an initial forward procurement

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

25 (iii) Notwithstanding whether the Commission has
26 approved the periodic long-term renewable resources

1 procurement plan revision described in Section
2 16-111.5 of the Public Utilities Act, the Agency shall
3 conduct at least one subsequent forward procurement
4 for renewable energy credits from new utility-scale
5 wind projects, new utility-scale solar projects, and
6 new brownfield site photovoltaic projects within 240
7 days after the effective date of this amendatory Act
8 of the 102nd General Assembly in quantities necessary
9 to meet the requirements of subparagraph (C) of this
10 paragraph (1) through the delivery year beginning June
11 1, 2021.

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

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

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

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

1 nameplate capacity.

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

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

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

1 renewable energy credit delivery contract as
2 quickly as possible.

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

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

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

1 (B) Contract awards for waitlisted
2 projects shall be allocated proportionate to
3 the total nameplate capacity amount across
4 both ordinal waitlists associated with that
5 applicant firm or its affiliates, subject to
6 the following conditions.

7 (i) Each applicant firm having a
8 waitlisted project eligible for selection
9 shall receive no less than 500 kilowatts
10 in awarded capacity across all groups, and
11 no approved vendor may receive more than
12 20% of each Group's waitlist allocation.

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

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

25 (iv) Assuming all other program
26 requirements are met, applicant firms may

1 adjust the expected production associated
2 with applicant projects, subject to
3 verification by the Program Administrator.

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

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

1 reopening for project selection under item
2 (iii) of subparagraph (K) of this subsection
3 (c).

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

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

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

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

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

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

1 construction activities associated with a
2 selected project.

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

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

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

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

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

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

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

1 REC counterparty this amount multiplied by the
2 quantity of energy produced in the relevant
3 settlement period.

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

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

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

24 (4) To ensure that indexed renewable energy
25 credit prices remain predictable and affordable,
26 the Agency may consider the institution of a price

1 collar on REC prices paid under indexed renewable
2 energy credit procurements establishing floor and
3 ceiling REC prices applicable to indexed REC
4 contract prices. Any price collars applicable to
5 indexed REC procurements shall be proposed by the
6 Agency through its long-term renewable resources
7 procurement plan.

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

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

1 environmental justice communities, as defined in
2 subsection (b) of Section 1-56 of this Act, or in
3 projects located in units of local government with
4 median incomes that do not exceed 82% of the median
5 income of the State.

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

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

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

1 this item (i).

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

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

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

1 multiplied by 25% multiplied by 14.5% multiplied
2 by the amount of metered electricity
3 (megawatt-hours) delivered by the alternative
4 retail electric supplier to Illinois retail
5 customers during the delivery year ending May 31,
6 2016.

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

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

1 June 1, 2018 is 14.5% multiplied by the total amount of
2 metered electricity (megawatt-hours) delivered in the
3 delivery year immediately preceding that delivery
4 year, provided that the 14.5% shall increase by 1.5%
5 each delivery year thereafter to 25% by the delivery
6 year beginning June 1, 2025, and thereafter the 25%
7 value shall apply to each delivery year.

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

26 On or before April 1 of each year, the Agency shall

1 annually publish a report on its website that
2 identifies the aggregate amount of renewable energy
3 credits supplied by alternative retail electric
4 suppliers under this subparagraph (H).

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

1 (b-5) of Section 8-406 of the Public Utilities Act to a
2 delivery point on the electric transmission grid located
3 in this State or a state adjacent to Illinois, if the
4 generator demonstrates and the Agency determines that the
5 operation of such facility or facilities will help promote
6 the State's interest in the health, safety, and welfare of
7 its residents based on the public interest criteria
8 described above. For the purposes of this Section,
9 renewable resources that are delivered via a high voltage
10 direct current converter station located in Illinois shall
11 be deemed generated in Illinois at the time and location
12 the energy is converted to alternating current by the high
13 voltage direct current converter station if the high
14 voltage direct current transmission line: (i) after the
15 effective date of this amendatory Act of the 102nd General
16 Assembly, was constructed with a project labor agreement;
17 (ii) is capable of transmitting electricity at 525kv;
18 (iii) has an Illinois converter station located and
19 interconnected in the region of the PJM Interconnection,
20 LLC; (iv) does not operate as a public utility; and (v) if
21 the high voltage direct current transmission line was
22 energized after June 1, 2023. To ensure that the public
23 interest criteria are applied to the procurement and given
24 full effect, the Agency's long-term procurement plan shall
25 describe in detail how each public interest factor shall
26 be considered and weighted for facilities located in

1 states adjacent to Illinois.

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

26 Notwithstanding the limitations of this subparagraph

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

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

1 enable the photovoltaic market to scale up and for
2 renewable energy credit prices to adjust at a predictable
3 rate over time. The prices set by the Adjustable Block
4 program can be reflected as a set value or as the product
5 of a formula.

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

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

14 The Adjustable Block program shall include the
15 following categories in at least the following amounts:

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

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

1 (iii) At least 30% from photovoltaic community
2 renewable generation projects. Capacity for this
3 category for the first 2 delivery years after the
4 effective date of this amendatory Act of the 102nd
5 General Assembly shall be allocated to waitlist
6 projects as provided in paragraph (3) of item (iv) of
7 subparagraph (G). Starting in the third delivery year
8 after the effective date of this amendatory Act of the
9 102nd General Assembly or earlier if the Agency
10 determines there is additional capacity needed for to
11 meet previous delivery year requirements, the
12 following shall apply:

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

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

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

1 5,000 kilowatts; and

2 (4) projects greater than 2 MW may not apply
3 until after the approval of the Agency's revised
4 Long-Term Renewable Resources Procurement Plan
5 after the effective date of this amendatory Act of
6 the 102nd General Assembly.

7 (iv) At least 15% from distributed renewable
8 generation devices or photovoltaic community renewable
9 generation projects installed on public school land.
10 The Agency may create subcategories within this
11 category to account for the differences between
12 project size or location. Projects located within
13 environmental justice communities or within
14 Organizational Units that fall within Tier 1 or Tier 2
15 shall be given priority. Each of the Agency's periodic
16 updates to its long-term renewable resources
17 procurement plan to incorporate the procurement
18 described in this subparagraph (iv) shall also include
19 the proposed quantities or blocks, pricing, and
20 contract terms applicable to the procurement as
21 indicated herein. In each such update and procurement,
22 the Agency shall set the renewable energy credit price
23 and establish payment terms for the renewable energy
24 credits procured pursuant to this subparagraph (iv)
25 that make it feasible and affordable for public
26 schools to install photovoltaic distributed renewable

1 energy devices on their premises, including, but not
2 limited to, those public schools subject to the
3 prioritization provisions of this subparagraph. For
4 the purposes of this item (iv):

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

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

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

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

1 receive renewable energy credits. Selection criteria
2 shall include:

3 (1) community ownership or community
4 wealth-building;

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

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

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

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

21 Selection criteria may also prioritize projects
22 that:

23 (1) are developed in collaboration with or to
24 provide complementary opportunities for the Clean
25 Jobs Workforce Network Program, the Illinois
26 Climate Works Preapprenticeship Program, the

1 Returning Residents Clean Jobs Training Program,
2 the Clean Energy Contractor Incubator Program, or
3 the Clean Energy Primes Contractor Accelerator
4 Program;

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

8 (3) are located in Equity Investment Eligible
9 Communities;

10 (4) are not greenfield projects;

11 (5) serve only local subscribers;

12 (6) have a nameplate capacity that does not
13 exceed 500 kW;

14 (7) are developed by an equity eligible
15 contractor; or

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

22 For the purposes of this item (v):

23 "Community" means a social unit in which people
24 come together regularly to effect change; a social
25 unit in which participants are marked by a cooperative
26 spirit, a common purpose, or shared interests or

1 characteristics; or a space understood by its
2 residents to be delineated through geographic
3 boundaries or landmarks.

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

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

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

1 opportunities for projects to submit applications for
2 projects under this category, and develop selection
3 criteria that gives preference to projects that better
4 meet individual criteria as well as projects that
5 address a higher number of criteria.

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

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

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

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

1 payments made after energization under items (ii) and
2 (iii) of subparagraph (L) or payments made for each
3 renewable energy credit delivery under item (iv) of
4 subparagraph (L).

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

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

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

26 The Adjustable Block program shall be designed to

1 ensure that renewable energy credits are procured from
2 projects in diverse locations and are not concentrated in
3 a few regional areas.

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

10 (i) (Blank).

11 (ii) For those renewable energy credits that
12 qualify and are procured under item (i) of
13 subparagraph (K) of this paragraph (1), and any
14 similar category projects that are procured under item
15 (vi) of subparagraph (K) of this paragraph (1) that
16 qualify and are procured under item (vi), the contract
17 length shall be 15 years. The renewable energy credit
18 delivery contract value shall be paid in full, based
19 on the estimated generation during the first 15 years
20 of operation, by the contracting utilities at the time
21 that the facility producing the renewable energy
22 credits is interconnected at the distribution system
23 level of the utility and verified as energized and
24 compliant by the Program Administrator. The electric
25 utility shall receive and retire all renewable energy
26 credits generated by the project for the first 15

1 years of operation. Renewable energy credits generated
2 by the project thereafter shall not be transferred
3 under the renewable energy credit delivery contract
4 with the counterparty electric utility.

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

26 (iv) For those renewable energy credits that

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

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

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

25 (vi) The utility shall be the counterparty to the
26 contracts executed under this subparagraph (L) that

1 are approved by the Commission under the process
2 described in Section 16-111.5 of the Public Utilities
3 Act. No contract shall be executed for an amount that
4 is less than one renewable energy credit per year.

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

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

23 (ix) Notwithstanding other requirements of this
24 subparagraph (L), no modification shall be required to
25 Adjustable Block program contracts if they were
26 already executed prior to the establishment, approval,

1 and implementation of new contract forms as a result
2 of this amendatory Act of the 102nd General Assembly.

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

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

25 The Program Administrator may charge application fees
26 to participating firms to cover the cost of program

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

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

24 The Agency and its consultant or consultants shall
25 monitor block activity, share program activity with
26 stakeholders and conduct quarterly meetings to discuss

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

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

1 procurement plan described in this subsection (c) and
2 paragraph (5) of subsection (b) of Section 16-111.5 of the
3 Public Utilities Act. Terms, conditions, and requirements
4 for program participation shall include the following:

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

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

1 (iii) To discourage deceptive marketing or other
2 bad faith business practices, the Agency may require
3 direct program participants, including agents
4 operating on their behalf, to provide standardized
5 disclosures to a customer prior to that customer's
6 execution of a contract for the development of a
7 distributed generation system or a subscription to a
8 community solar project.

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

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

24 (vi) The Agency shall schedule regular meetings
25 with representatives of the Office of the Attorney
26 General, the Illinois Commerce Commission, consumer

1 protection groups, and other interested stakeholders
2 to share relevant information about consumer
3 protection, project compliance, and complaints
4 received.

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

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

1 service territory.

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

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

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

24 The owners of and any subscribers to a community
25 renewable generation project shall not be considered
26 public utilities or alternative retail electricity

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

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

1 Opportunity to implement the workforce development
2 programs and reporting as outlined in Section 16-108.12 of
3 the Public Utilities Act. In making the determinations
4 required under this subparagraph (O), the Commission shall
5 consider the experience and performance under the programs
6 and any evaluation reports. The Commission shall also
7 provide for an independent evaluation of those programs on
8 a periodic basis that are funded under this subparagraph
9 (O).

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

17 The Agency shall develop a method to optimize
18 procurement of renewable energy credits from proposed
19 utility-scale projects that are located in communities
20 eligible to receive Energy Transition Community Grants
21 pursuant to Section 10-20 of the Energy Community
22 Reinvestment Act. If this requirement conflicts with other
23 provisions of law or the Agency determines that full
24 compliance with the requirements of this subparagraph (P)
25 would be unreasonably costly or administratively
26 impractical, the Agency is to propose alternative

1 approaches to achieve development of renewable energy
2 resources in communities eligible to receive Energy
3 Transition Community Grants pursuant to Section 10-20 of
4 the Energy Community Reinvestment Act or seek an exemption
5 from this requirement from the Commission.

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

13 (1) Each facility shall be subject to the
14 prevailing wage requirements included in the
15 Prevailing Wage Act. The Agency shall require
16 verification that all construction performed on the
17 facility by the renewable energy credit delivery
18 contract holder, its contractors, or its
19 subcontractors relating to construction of the
20 facility is performed by construction employees
21 receiving an amount for that work equal to or greater
22 than the general prevailing rate, as that term is
23 defined in Section 3 of the Prevailing Wage Act. For
24 purposes of this item (1), "house of worship" means
25 property that is both (1) used exclusively by a
26 religious society or body of persons as a place for

1 religious exercise or religious worship and (2)
2 recognized as exempt from taxation pursuant to Section
3 15-40 of the Property Tax Code. This item (1) shall
4 apply to any the following:

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

6 (ii) all new utility-scale photovoltaic
7 projects;

8 (iii) all new brownfield photovoltaic
9 projects;

10 (iv) all new photovoltaic community renewable
11 energy facilities that qualify for item (iii) of
12 subparagraph (K) of this paragraph (1);

13 (v) all new community driven community
14 photovoltaic projects that qualify for item (v) of
15 subparagraph (K) of this paragraph (1);

16 (vi) all new photovoltaic projects on public
17 school land that qualify for item (iv) of
18 subparagraph (K) of this paragraph (1);

19 (vii) all new photovoltaic distributed
20 renewable energy generation devices that (1)
21 qualify for item (i) of subparagraph (K) of this
22 paragraph (1); (2) are not projects that serve
23 single-family or multi-family residential
24 buildings; and (3) are not houses of worship where
25 the aggregate capacity including collocated
26 projects would not exceed 100 kilowatts;

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

9 (ix) all new, modernized, or retooled
10 hydropower facilities.

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

1 plant and the individuals representing the labor
2 organization employees participating in the project
3 labor agreement consistent with the Project Labor
4 Agreements Act. The agreement must also specify the
5 terms and conditions as defined by this Act.

6 (3) It is the intent of this Section to ensure that
7 economic development occurs across Illinois
8 communities, that emerging businesses may grow, and
9 that there is improved access to the clean energy
10 economy by persons who have greater economic burdens
11 to success. The Agency shall take into consideration
12 the unique cost of compliance of this subparagraph (Q)
13 that might be borne by equity eligible contractors,
14 shall include such costs when determining the price of
15 renewable energy credits in the Adjustable Block
16 program, and shall take such costs into consideration
17 in a nondiscriminatory manner when comparing bids for
18 competitive procurements. The Agency shall consider
19 costs associated with compliance whether in the
20 development, financing, or construction of projects.
21 The Agency shall periodically review the assumptions
22 in these costs and may adjust prices, in compliance
23 with subparagraph (M) of this paragraph (1).

24 (R) In its long-term renewable resources procurement
25 plan, the Agency shall establish a self-direct renewable
26 portfolio standard compliance program for eligible

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

11 (1) For the purposes of this subparagraph:

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

21 "Retail customer" has the meaning set forth in
22 Section 16-102 of the Public Utilities Act and
23 multiple retail customer accounts under the same
24 corporate parent may aggregate their account demands
25 to meet the 10,000 kilowatt threshold. The criteria
26 for determining whether this subparagraph is

1 applicable to a retail customer shall be based on the
2 12 consecutive billing periods prior to the start of
3 the year in which the application is filed.

4 (2) For renewable energy credits to count toward
5 the self-direct renewable portfolio standard
6 compliance program, they must:

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

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

20 (iii) be procured through long-term contracts
21 with term lengths of at least 10 years either
22 directly with the renewable energy generating
23 facility or through a bundled power purchase
24 agreement, a virtual power purchase agreement, an
25 agreement between the renewable generating
26 facility, an alternative retail electric supplier,

1 and the customer, or such other structure as is
2 permissible under this subparagraph (R);

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

8 (v) be retired by or on behalf of the large
9 energy customer;

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

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

20 (3) The self-direct renewable portfolio standard
21 compliance program shall be designed to allow eligible
22 self-direct customers to procure new renewable energy
23 credits from new utility-scale wind projects or new
24 utility-scale photovoltaic projects. The Agency shall
25 annually determine the amount of utility-scale
26 renewable energy credits it will include each year

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

1 recent electricity billing statements or other
2 information deemed necessary by the Agency to
3 demonstrate they are an eligible self-direct customer.

4 (4) The Commission shall approve a reduction in
5 the volumetric charges collected pursuant to Section
6 16-108 of the Public Utilities Act for approved
7 eligible self-direct customers equivalent to the
8 anticipated cost of renewable energy credit deliveries
9 under contracts for new utility-scale wind and new
10 utility-scale solar entered for each delivery year
11 after the large energy customer begins retiring
12 eligible new utility scale renewable energy credits
13 for self-compliance. The self-direct credit amount
14 shall be determined annually and is equal to the
15 estimated portion of the cost authorized by
16 subparagraph (E) of paragraph (1) of this subsection
17 (c) that supported the annual procurement of
18 utility-scale renewable energy credits in the prior
19 delivery year using a methodology described in the
20 long-term renewable resources procurement plan,
21 expressed on a per kilowatthour basis, and does not
22 include (i) costs associated with any contracts
23 entered into before the delivery year in which the
24 customer files the initial compliance report to be
25 eligible for participation in the self-direct program,
26 and (ii) costs associated with procuring renewable

1 energy credits through existing and future contracts
2 through the Adjustable Block Program, subsection (c-5)
3 of this Section 1-75, and the Solar for All Program.
4 The Agency shall assist the Commission in determining
5 the current and future costs. The Agency must
6 determine the self-direct credit amount for new and
7 existing eligible self-direct customers and submit
8 this to the Commission in an annual compliance filing.
9 The Commission must approve the self-direct credit
10 amount by June 1, 2023 and June 1 of each delivery year
11 thereafter.

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

24 (i) the customer's certification that, at the
25 time of the customer's application, the customer
26 qualifies to be a self-direct eligible customer,

1 including documents demonstrating that
2 qualification;

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

9 (iii) certification that the contract or
10 contracts for new renewable energy resources are
11 long-term contracts with term lengths of at least
12 10 years, including supporting documentation;

13 (iv) certification of the quantities of
14 renewable energy credits that the customer will
15 purchase each year under such contract or
16 contracts, including supporting documentation;

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

22 (vi) certification that the customer intends
23 to maintain the contract for the duration of the
24 length of the contract.

25 (6) If a customer receives the self-direct credit
26 but fails to properly procure and retire renewable

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

13 (2) (Blank).

14 (3) (Blank).

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

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

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

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

26 (7) Renewable energy credits procured from new

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

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

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

22 (1) In addition to the procurement of renewable energy
23 credits pursuant to long-term renewable resources
24 procurement plans in accordance with subsection (c) of
25 this Section and Section 16-111.5 of the Public Utilities
26 Act, the Agency shall conduct procurement events in

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

1 procure renewable energy resources pursuant to subsection
2 (c), and shall not be subject to any other requirements or
3 limitations of subsection (c).

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

1 subsection (c-5). The eligibility criteria for selection
2 as a supplier of renewable energy credits pursuant to this
3 subsection (c-5) shall be as follows:

4 (A) The applicant owns an electric generating
5 facility located in this State that: (i) as of January
6 1, 2016, burned coal as its primary fuel to generate
7 electricity; and (ii) has, or had prior to retirement,
8 an electric generating capacity of at least 150
9 megawatts. The electric generating facility can be
10 either: (i) retired as of the date of the procurement
11 event; or (ii) still operating as of the date of the
12 procurement event.

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

23 (C) If participating in the first procurement
24 event, the applicant proposes and commits to construct
25 and operate, at the site, and if necessary for
26 sufficient space on property adjacent to the existing

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

18 (D) The applicant agrees that the new renewable
19 energy facility and the energy storage facility will
20 be constructed or installed by a qualified entity or
21 entities in compliance with the requirements of
22 subsection (g) of Section 16-128A of the Public
23 Utilities Act and any rules adopted thereunder.

24 (E) The applicant agrees that personnel operating
25 the new renewable energy facility and the energy
26 storage facility will have the requisite skills,

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

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

25 (G) The applicant commits that if selected, it
26 will negotiate a project labor agreement for the

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

10 (H) The applicant commits to enter into a contract
11 or contracts for the applicable duration to provide
12 specified numbers of renewable energy credits each
13 year from the new renewable energy facility to
14 electric utilities that served more than 300,000
15 retail customers in this State as of January 1, 2019,
16 at a price of \$30 per renewable energy credit. The
17 price per renewable energy credit shall be fixed at
18 \$30 for the applicable duration and the renewable
19 energy credits shall not be indexed renewable energy
20 credits as provided for in item (v) of subparagraph
21 (G) of paragraph (1) of subsection (c) of Section 1-75
22 of this Act. The applicable duration of each contract
23 shall be 20 years, unless the applicant is physically
24 interconnected to the PJM Interconnection, LLC
25 transmission grid and had a generating capacity of at
26 least 1,200 megawatts as of January 1, 2021, in which

1 case the applicable duration of the contract shall be
2 15 years.

3 (I) The applicant's application is certified by an
4 officer of the applicant and by an officer of the
5 applicant's ultimate parent company, if any.

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

16 (4) The Agency shall assess fees to each applicant to
17 recover the Agency's costs incurred in receiving and
18 evaluating applications, conducting the procurement event,
19 developing contracts for sale, delivery and purchase of
20 renewable energy credits, and monitoring the
21 administration of such contracts, as provided for in this
22 subsection (c-5), including fees paid to a procurement
23 administrator retained by the Agency for one or more of
24 these purposes.

25 (5) The Agency shall select the applicants and the new
26 renewable energy facilities to contract with electric

1 utilities to supply renewable energy credits in accordance
2 with this subsection (c-5). In the first procurement
3 event, the Agency shall select applicants and new
4 renewable energy facilities to supply renewable energy
5 credits, at a price of \$30 per renewable energy credit,
6 aggregating to no less than 400,000 renewable energy
7 credits per year for the applicable duration, assuming
8 sufficient qualifying applications to supply, in the
9 aggregate, at least that amount of renewable energy
10 credits per year; and not more than 580,000 renewable
11 energy credits per year for the applicable duration. In
12 the second procurement event, the Agency shall select
13 applicants and new renewable energy facilities to supply
14 renewable energy credits, at a price of \$30 per renewable
15 energy credit, aggregating to no more than 625,000
16 renewable energy credits per year less the amount of
17 renewable energy credits each year contracted for as a
18 result of the first procurement event, for the applicable
19 durations. The number of renewable energy credits to be
20 procured as specified in this paragraph (5) shall not be
21 reduced based on renewable energy credits procured in the
22 self-direct renewable energy credit compliance program
23 established pursuant to subparagraph (R) of paragraph (1)
24 of subsection (c) of Section 1-75.

25 (6) The obligation to purchase renewable energy
26 credits from the applicants and their new renewable energy

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

17 (7) The Agency shall submit its proposed selection of
18 applicants, new renewable energy facilities to be
19 constructed, and renewable energy credit amounts for each
20 procurement event to the Commission for approval. The
21 Commission shall, within 2 business days after receipt of
22 the Agency's proposed selections, approve the proposed
23 selections if it determines that the applicants and the
24 new renewable energy facilities to be constructed meet the
25 selection criteria set forth in this subsection (c-5) and
26 that the Agency seeks approval for contracts of applicable

1 durations aggregating to no more than the maximum amount
2 of renewable energy credits per year authorized by this
3 subsection (c-5) for the procurement event, at a price of
4 \$30 per renewable energy credit.

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

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

22 (9) Coal to Solar and Energy Storage Initiative
23 Charge.

24 (A) By no later than July 1, 2022, each electric
25 utility that served more than 300,000 retail customers
26 in this State as of January 1, 2019 shall file a tariff

1 with the Commission for the billing and collection of
2 a Coal to Solar and Energy Storage Initiative Charge
3 in accordance with subsection (i-5) of Section 16-108
4 of the Public Utilities Act, with such tariff to be
5 effective, following review and approval or
6 modification by the Commission, beginning January 1,
7 2023. The tariff shall provide for the calculation and
8 setting of the electric utility's Coal to Solar and
9 Energy Storage Initiative Charge to collect revenues
10 estimated to be sufficient, in the aggregate, (i) to
11 enable the electric utility to pay for the renewable
12 energy credits it has contracted to purchase in the
13 delivery year beginning June 1, 2023 and each delivery
14 year thereafter from new renewable energy facilities
15 located at the sites of qualifying electric generating
16 facilities, and (ii) to fund the grant payments to be
17 made in each delivery year by the Department of
18 Commerce and Economic Opportunity, or any successor
19 department or agency, which shall be referred to in
20 this subsection (c-5) as the Department, pursuant to
21 paragraph (10) of this subsection (c-5). The electric
22 utility's tariff shall provide for the billing and
23 collection of the Coal to Solar and Energy Storage
24 Initiative Charge on each kilowatthour of electricity
25 delivered to its delivery services customers within
26 its service territory and shall provide for an annual

1 reconciliation of revenues collected with actual
2 costs, in accordance with subsection (i-5) of Section
3 16-108 of the Public Utilities Act.

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

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

14 (A) The Coal to Solar and Energy Storage
15 Initiative Fund is established as a special fund in
16 the State treasury. The Coal to Solar and Energy
17 Storage Initiative Fund is authorized to receive, by
18 statutory deposit, that portion specified in item (B)
19 of paragraph (9) of this subsection (c-5) of moneys
20 collected by electric utilities through imposition of
21 the Coal to Solar and Energy Storage Initiative Charge
22 required by this subsection (c-5). The Coal to Solar
23 and Energy Storage Initiative Fund shall be
24 administered by the Department to provide grants to
25 support the installation and operation of energy
26 storage facilities at the sites of qualifying electric

1 generating facilities meeting the criteria specified
2 in this paragraph (10).

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

13 (C) The Department shall utilize up to
14 \$280,500,000 in the Coal to Solar and Energy Storage
15 Initiative Fund for grants, assuming sufficient
16 qualifying applicants, to support installation of
17 energy storage facilities at the sites of up to 3
18 qualifying electric generating facilities located in
19 the Midcontinent Independent System Operator, Inc.,
20 region in Illinois and the sites of up to 2 qualifying
21 electric generating facilities located in the PJM
22 Interconnection, LLC region in Illinois that meet the
23 criteria set forth in this subparagraph (C). The
24 criteria for receipt of a grant pursuant to this
25 subparagraph (C) are as follows:

26 (1) the electric generating facility at the

1 site has, or had prior to retirement, an electric
2 generating capacity of at least 150 megawatts;

3 (2) the electric generating facility burns (or
4 burned prior to retirement) coal as its primary
5 source of fuel;

6 (3) if the electric generating facility is
7 retired, it was retired subsequent to January 1,
8 2016;

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

17 (5) the electric generating facility located
18 at the site was at one time owned, in whole or in
19 part, by a public utility as defined in Section
20 3-105 of the Public Utilities Act;

21 (6) the electric generating facility at the
22 site is not owned by (i) an electric cooperative
23 as defined in Section 3-119 of the Public
24 Utilities Act, or (ii) an entity described in
25 subsection (b) (1) of Section 3-105 of the Public
26 Utilities Act, or an association or consortium of

1 or an entity owned by entities described in items
2 (i) or (ii);

3 (7) the proposed energy storage facility at
4 the site will have energy storage capacity of at
5 least 37 megawatts;

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

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

21 (10) the owner agrees that personnel operating
22 the energy storage facility will have the
23 requisite skills, knowledge, training, experience,
24 and competence, which may be demonstrated by
25 completion or current participation and ultimate
26 completion by employees of an accredited or

1 otherwise recognized apprenticeship program for
2 the employee's particular craft, trade, or skill,
3 including through training and education courses
4 and opportunities offered by the owner to
5 employees of the coal-fueled electric generating
6 facility or by previous employment experience
7 performing the employee's particular work skill or
8 function;

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

22 (12) the owner commits that if selected to
23 receive a grant, it will negotiate a project labor
24 agreement for the construction of the new energy
25 storage facility that includes provisions
26 requiring the parties to the agreement to work

1 together to establish diversity threshold
2 requirements and to ensure best efforts to meet
3 diversity targets, improve diversity at the
4 applicable job site, create diverse apprenticeship
5 opportunities, and create opportunities to employ
6 former coal-fired power plant workers.

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

19 (D) Grants of funding for energy storage
20 facilities pursuant to subparagraph (C) of this
21 paragraph (10), from the Coal to Solar and Energy
22 Storage Initiative Fund, shall be memorialized in
23 grant contracts between the Department and the
24 recipient. The grant contracts shall specify the date
25 or dates in each year on which the annual grant
26 payments shall be paid.

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

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

13 (A) Each applicant selected in a procurement event
14 to contract to supply renewable energy credits in
15 accordance with this subsection (c-5) and each owner
16 selected by the Department to receive a grant or
17 grants to support the construction and operation of a
18 new energy storage facility or facilities in
19 accordance with this subsection (c-5) shall, within 60
20 days following the Commission's approval of the
21 applicant to contract to supply renewable energy
22 credits or within 60 days following execution of a
23 grant contract with the Department, as applicable,
24 submit to the Commission a diversity, equity, and
25 inclusion plan setting forth the applicant's or
26 owner's numeric goals for the diversity composition of

1 its supplier entities for the new renewable energy
2 facility or new energy storage facility, as
3 applicable, which shall be referred to for purposes of
4 this paragraph (11) as the project, and the
5 applicant's or owner's action plan and schedule for
6 achieving those goals.

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

1 to critical energy infrastructure or cybersecurity
2 requirements or restrictions. The plan may provide
3 that the diversity composition goals may be met
4 through Tier 1 Direct or Tier 2 subcontracting
5 expenditures or a combination thereof for the project.

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

1 obligations under the plan. The plan may provide for
2 the applicant or owner to set aside a portion of the
3 work on the project to serve as an incubation program
4 for qualified businesses, as specified in the plan,
5 owned by minority persons, women, persons with
6 disabilities, LGBTQ persons, and veterans, and
7 businesses located in environmental justice
8 communities, seeking to enter the renewable energy
9 industry.

10 (D) The applicant or owner may submit a revised or
11 updated plan to the Commission from time to time as
12 circumstances warrant. The applicant or owner shall
13 file annual reports with the Commission detailing the
14 applicant's or owner's progress in implementing its
15 plan and achieving its goals and any modifications the
16 applicant or owner has made to its plan to better
17 achieve its diversity, equity and inclusion goals. The
18 applicant or owner shall file a final report on the
19 fifth June 1 following the commercial operation date
20 of the new renewable energy resource or new energy
21 storage facility, but the applicant or owner shall
22 thereafter continue to be subject to applicable
23 reporting requirements of Section 5-117 of the Public
24 Utilities Act.

25 (c-7) Within 120 days after the effective date of this
26 amendatory Act, the Agency shall develop a one-time high

1 voltage direct current renewable energy credit procurement
2 plan limited to the procurement of high voltage direct current
3 renewable energy credits.

4 (1) In addition to the procurement of renewable energy
5 credits pursuant to long-term renewable resources
6 procurement plan in accordance with subsection (c) of this
7 Section and Section 16-111.5 of the Public Utilities Act
8 and the procurement of coal-to-solar renewable energy
9 credits in accordance with subsection (c-5) of this
10 Section, the Agency shall conduct procurement events in
11 accordance with this subsection for the procurement of
12 high voltage direct current renewable energy credits by
13 electric utilities that served more than 300,000 retail
14 customers in this State as of January 1, 2019 and that
15 comply with the requirements of this subsection. The
16 procurement of renewable energy credits by electric
17 utilities pursuant to this subsection (c-7) shall:

18 (A) be funded solely by revenues collected from
19 the dispatchable and reliable renewable energy charge
20 pursuant to this subsection and subsection (i-7) of
21 Section 16-108 of the Public Utilities Act;

22 (B) not be funded by revenues collected through
23 any other funding mechanisms provided for in
24 subsection (c) of this Section;

25 (C) not be subject to the limitation imposed by
26 subsection (c) on charges to retail customers for

1 costs to procure renewable energy resources pursuant
2 to subsection (c); and

3 (D) not be subject to any other requirements or
4 limitations of subsection (c).

5 (2) Within 5 days after the filing of the high voltage
6 direct current renewable energy credit procurement plan at
7 the Commission, any person objecting to the high voltage
8 direct current renewable energy credit procurement plan
9 may file an objection with the Commission. Within 10 days
10 after the filing, the Commission shall determine whether a
11 hearing is necessary. The Commission shall enter its order
12 confirming or modifying the supplemental procurement plan
13 within 90 days after the filing of the supplemental
14 procurement plan by the Agency.

15 (3) The Commission shall approve the high voltage
16 direct current renewable energy credit procurement plan if
17 the Commission determines that it will ensure adequate,
18 reliable, affordable, efficient, and environmentally
19 sustainable electric service in the form of renewable
20 energy credits at the lowest total cost over time, taking
21 into account any benefits of price stability. The
22 Commission shall also consider the benefits of the related
23 high voltage direct current transmission line on achieving
24 the goals of the Climate and Equitable Jobs Act, Public
25 Act 102-0662, and ensuring availability of power and
26 energy upon the occurrence of projected electrical

1 generation retirements or closures based on subsection (g)
2 of Section 9.15 of the Environmental Protection Act.

3 (4) The high voltage direct current renewable energy
4 credit procurement plan shall provide for procurement of
5 high voltage direct current renewable energy credits using
6 an indexed renewable energy credit structure as described
7 in item (v) of subparagraph (G) of paragraph (1) of
8 subsection (c) of this Section 1-75. The high voltage
9 direct current renewable energy credit procurement plan
10 shall procure a target volume of not less than 12,500,000
11 high voltage direct current renewable energy credits
12 delivered annually. Notwithstanding any other provision of
13 this subsection, the contracts for high voltage direct
14 current renewable energy credits shall contain the
15 following terms:

16 (i) terms requiring delivery of renewable energy
17 credits beginning on the later of June 1, 2029 or
18 energization of the associated high voltage direct
19 current transmission line and reasonable extensions of
20 this deadline for delays in energization of the high
21 voltage direct current transmission line and one or
22 more renewable generation facilities intended to
23 produce high voltage direct current renewable energy
24 credits;

25 (ii) terms requiring the term to be selected by
26 the bidder and to be not less than 25 years and not

1 more than 40 years;

2 (iii) terms requiring the fuel type for the high
3 voltage direct current renewable energy credits to be
4 solar photovoltaics or wind, or, if insufficient high
5 voltage direct current renewable energy credits are
6 available from solar photovoltaics or wind, other fuel
7 types that qualify as a renewable resource under
8 Section 1-10 of this Act;

9 (iv) terms requiring monthly payment for renewable
10 energy credits actually delivered, not to exceed 120%
11 of the annual delivery quantity bid on a 3-year
12 rolling average basis;

13 (v) terms requiring a reasonable, minimum annual
14 delivery quantity of high voltage direct current
15 renewable energy credits; however, no default shall
16 occur and no penalties shall be assessed in the event
17 of a force majeure event, to the extent that the
18 minimum annual delivery quantity was missed due to
19 less than full dispatch of the high voltage direct
20 current converter station or curtailment of associated
21 generation during that same delivery year, due to
22 underdelivery of high voltage direct current renewable
23 energy credits through the third anniversary of
24 energization of the high voltage direct current
25 transmission line, or such other reasonable exceptions
26 as may be identified;

1 (vi) terms setting forth reasonable performance
2 assurance and credit requirements;

3 (vii) terms requiring all high voltage direct
4 current renewable energy credits delivered to be
5 generated from a system that is energized or repowered
6 on or after the effective date of this amendatory Act;

7 (viii) terms authorizing, at any time after
8 selection, the winning bidder to change, upon notice
9 to the Agency, the generation source or anticipated
10 generation source of any high voltage direct current
11 renewable energy credits;

12 (ix) terms requiring the Agency to track both the
13 amount of high voltage direct current renewable energy
14 credits delivered and multiply that amount by the
15 total price of the high voltage direct current
16 renewable energy credit, including both the renewable
17 generation component and the transmission reliability
18 component in order to ensure timely delivery of the
19 benefits of fully constructed and energized high
20 voltage direct current transmission facilities, and to
21 ensure the viability and financiability of the high
22 voltage direct current transmission facilities and all
23 of the associated renewable generation, from
24 energization of the high voltage direct current
25 transmission line through the third anniversary of its
26 energization; and

1 (x) terms requiring the Agency to track, only
2 during the first 3 years of operation, the additional
3 megawatt-hours converted at the high voltage direct
4 current converter station.

5 The Agency shall take the amount calculated under item
6 (x) and subtract the number of high voltage direct current
7 renewable energy credits delivered during the same time
8 period, which difference shall be defined as the "interim
9 generation". For the first 3 years of operation of the
10 high voltage direct current transmission facilities, only
11 a winning bidder shall, in addition to compensation for
12 high voltage direct current renewable energy credits, be
13 compensated under the same contract for the interim
14 generation measured in megawatt-hours multiplied by the
15 transmission reliability component defined in subparagraph
16 (D) of paragraph (5) of this subsection (c-7). The
17 resulting cumulative amount paid for the interim
18 generation for the first 3 years of operation shall be
19 identified as the "reliability advance".

20 Following the third anniversary of energization of the
21 high voltage direct current transmission line, the next
22 120 monthly invoices shall be reduced by 1/120th of the
23 reliability advance. For the avoidance of doubt, if the
24 monthly invoice would be an amount less than zero
25 following application of the monthly share of the
26 reliability advance, the winning bidder would owe the

1 utility counterparties the absolute value of such amount.

2 The high voltage direct current renewable energy
3 credit procurement plan shall allow the owner or operator,
4 or the owner or operator's designee, to enter multiple
5 bids, provided that the same bid shall not include high
6 voltage direct current renewable energy credits pledged in
7 another bid.

8 The high voltage direct current renewable energy
9 credit procurement plan shall not, subject to the
10 preference for solar photovoltaic and wind generation,
11 prohibit or penalize any renewable energy credits that
12 meet the definition of high voltage renewable energy
13 credit in this Act.

14 The high voltage direct current renewable energy
15 credit procurement plan shall include a contingency plan
16 if the Agency procures less than 12,500,000 high voltage
17 direct current renewable energy credits annually or if one
18 or more winning bidders fails to deliver any high voltage
19 direct current renewable energy credits. The number of
20 high voltage direct current renewable energy credits to be
21 procured as specified in this paragraph shall not be
22 reduced based on renewable energy credits procured in the
23 self-direct renewable energy credit compliance program
24 established pursuant to subparagraph (R) of paragraph (1)
25 of subsection (c) of this Section.

26 (5) The renewable energy credits procured pursuant to

1 the high voltage direct current renewable energy credit
2 procurement plan shall be procured in accordance with the
3 Agency and Commission's competitive procurement process in
4 subsections (e) through (p) of Section 16-111.5 of the
5 Public Utilities Act, as applicable. Notwithstanding
6 anything in Section 16-111.5 of the Public Utilities Act:

7 (A) The high voltage direct current renewable
8 energy credit procurement plan shall provide that the
9 owner or operator of a high voltage direct current
10 transmission line, or the owner or operator's
11 designee, may bid in the procurements described in
12 this subsection to ensure the delivery of high voltage
13 direct current renewable energy credits. For the
14 purposes of this paragraph, the owner or the owner or
15 operator's designee must demonstrate that it has site
16 control of at least 90 miles of route located within
17 the State, plans reflecting 525 kV or greater delivery
18 voltage, and construction of at least 100 miles of
19 transmission line underground in Illinois. For the
20 purpose of this subparagraph, site control may include
21 easements, leases, options for leases, or any similar
22 indicia of site control identified by the Agency.

23 (B) A bid shall be a price and quantity of high
24 voltage direct current renewable energy credits. Each
25 bid shall be for a quantity of not less than 5,000,000
26 high voltage direct current renewable energy credits

1 annually.

2 (C) The Agency shall procure only cost-effective
3 high voltage direct current renewable energy credits.
4 Cost-effectiveness shall be evaluated for 2 components
5 of the bid: the renewable component defined in this
6 subparagraph and the transmission reliability
7 component defined in subparagraph (D) of this
8 paragraph. Each bid shall specifically identify the
9 price for the renewable component. For the purposes of
10 this subsection, "cost-effective" for the renewable
11 component means that the renewable component does not
12 exceed benchmarks based on market prices for renewable
13 energy credits procured from utility-scale renewable
14 generation of similar fuel type and size in Illinois
15 without regard to the actual location of such
16 generation.

17 (D) Each competitive bid shall specifically
18 identify the price charged by the high voltage direct
19 current transmission line, expressed as dollars per
20 megawatt-hour for the transmission reliability
21 component. For the purposes of this subsection, "cost
22 effective" for the transmission reliability component
23 means that the price per megawatt-hour of the
24 transmission reliability component over the system
25 lifetime is less than the benchmark established in
26 accordance with subsection (e) of Section 16-111.5 of

1 the Public Utilities Act as modified by this
2 subparagraph.

3 Notwithstanding anything to the contrary in this
4 Act or the Public Utilities Act, in developing the
5 benchmark, the Agency shall use values for the capital
6 and costs for high voltage direct current transmission
7 facilities developed by the Board. The Board shall
8 calculate a range of capital costs that it believes
9 would be reasonable for high voltage direct current
10 transmission facilities of similar specifications to
11 an applicant high voltage direct current transmission
12 line. The Board may consult as much as it deems
13 necessary with high voltage direct current
14 transmission facility developer applicants or
15 potential applicants, or the developer's designee, and
16 conduct whatever research and investigation it deems
17 necessary. The Board shall retain an engineering
18 expert in making such determination with at least 10
19 years of experience in transmission, merchant
20 transmission development, and high voltage direct
21 current transmission. The expert shall not own or
22 control any direct or indirect interest in the high
23 voltage direct current transmission line and shall not
24 have a contractual relationship with the high voltage
25 direct current transmission line.

26 Prior to any bid, the Board shall determine an

1 index or indicator that reflects the current
2 conditions for: (i) inflation, (ii) the price of
3 copper, (iii) labor to construct the high voltage
4 direct current transmission line, assuming a project
5 labor agreement will exist, (iv) steel, and (v) prime
6 interest rate. The Board shall record the values of
7 such indexes and indicators on the date of the bid. The
8 Board shall further develop a formula based on the
9 recommendations of the engineering expert to assess
10 the potential impact on changes in each such index or
11 indicator on the capital and other costs of
12 potentially bidding high voltage direct current
13 transmission facilities based on changes to the
14 indexes and indicators from the bid date. The
15 transmission reliability component of the high voltage
16 direct current renewable energy credit bid price shall
17 be proportionately increased or decreased to the
18 extent that inputting the indexes and indicators on
19 the date of commencement of construction demonstrates
20 an increase or decrease in costs to the high voltage
21 direct current transmission facilities.

22 (E) The contract price shall contain the original
23 bid price of each winning bidder, inclusive of the
24 costs charged by the high voltage direct current
25 transmission line, subject to the adjustment described
26 in subparagraph (D) of this paragraph.

1 (F) For the purposes of this paragraph, all
2 information about high voltage direct current
3 transmission line pricing shall be maintained as
4 proprietary and highly confidential and not disclosed
5 by the Agency, Commission, Board, or any third party
6 otherwise privy to such information.

7 (6) The Agency and its procurement administrator shall
8 administer, not later than June 1, 2025, the procurement
9 authorized in the high voltage direct current renewable
10 energy credit procurement plan.

11 (7) The Agency shall assess fees to each applicant to
12 recover the Agency's costs incurred in receiving and
13 evaluating applications, conducting the procurement event,
14 developing contracts for sale, delivery and purchase of
15 renewable energy credits, and monitoring the
16 administration of such contracts, as provided for in this
17 subsection, including fees paid to a procurement
18 administrator retained by the Agency for one or more of
19 these purposes.

20 (8) The obligation to purchase high voltage direct
21 current renewable energy credits selected by the Agency
22 shall be allocated to the electric utilities based on
23 their respective percentages of kilowatt-hours delivered
24 to delivery service customers to the aggregate
25 kilowatt-hour deliveries by the electric utilities to
26 delivery service customers for the year ending on December

1 31, 2021. In order to achieve these allocation percentages
2 between or among the electric utilities, the Agency shall
3 require each winning bidder that is selected in the
4 procurement event to enter into a contract with each
5 electric utility for the sale and purchase of high voltage
6 direct current renewable energy credits meeting the
7 standards of this subsection, with the sale and purchase
8 obligations under the contracts to aggregate to the total
9 number of high voltage direct current renewable energy
10 credits per year to be supplied by the applicant.

11 (c-10) Equity accountability system. It is the purpose of
12 this subsection (c-10) to create an equity accountability
13 system, which includes the minimum equity standards for all
14 renewable energy procurements, the equity category of the
15 Adjustable Block Program, and the equity prioritization for
16 noncompetitive procurements, that is successful in advancing
17 priority access to the clean energy economy for businesses and
18 workers from communities that have been 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. Further, it is the purpose of this subsection to
23 ensure that this equity accountability system is successful in
24 advancing equity across Illinois by providing access to the
25 clean energy economy for businesses and workers from
26 communities that have been historically excluded from economic

1 opportunities in the energy sector, have been subject to
2 disproportionate levels of pollution, and have
3 disproportionately experienced negative public health
4 outcomes.

5 (1) Minimum equity standards. The Agency shall create
6 programs with the purpose of increasing access to and
7 development of equity eligible contractors, who are prime
8 contractors and subcontractors, across all of the programs
9 it manages. All applications for renewable energy credit
10 procurements shall comply with specific minimum equity
11 commitments. Starting in the delivery year immediately
12 following the next long-term renewable resources
13 procurement plan, at least 10% of the project workforce
14 for each entity participating in a procurement program
15 outlined in this subsection (c-10) must be done by equity
16 eligible persons or equity eligible contractors. The
17 Agency shall increase the minimum percentage each delivery
18 year thereafter by increments that ensure a statewide
19 average of 30% of the project workforce for each entity
20 participating in a procurement program is done by equity
21 eligible persons or equity eligible contractors by 2030.
22 The Agency shall propose a schedule of percentage
23 increases to the minimum equity standards in its draft
24 revised renewable energy resources procurement plan
25 submitted to the Commission for approval pursuant to
26 paragraph (5) of subsection (b) of Section 16-111.5 of the

1 Public Utilities Act. In determining these annual
2 increases, the Agency shall have the discretion to
3 establish different minimum equity standards for different
4 types of procurements and different regions of the State
5 if the Agency finds that doing so will further the
6 purposes of this subsection (c-10). The proposed schedule
7 of annual increases shall be revisited and updated on an
8 annual basis. Revisions shall be developed with
9 stakeholder input, including from equity eligible persons,
10 equity eligible contractors, clean energy industry
11 representatives, and community-based organizations that
12 work with such persons and contractors.

13 (A) At the start of each delivery year, the Agency
14 shall require a compliance plan from each entity
15 participating in a procurement program of subsection
16 (c) of this Section that demonstrates how they will
17 achieve compliance with the minimum equity standard
18 percentage for work completed in that delivery year.
19 If an entity applies for its approved vendor or
20 designee status between delivery years, the Agency
21 shall require a compliance plan at the time of
22 application.

23 (B) Halfway through each delivery year, the Agency
24 shall require each entity participating in a
25 procurement program to confirm that it will achieve
26 compliance in that delivery year, when applicable. The

1 Agency may offer corrective action plans to entities
2 that are not on track to achieve compliance.

3 (C) At the end of each delivery year, each entity
4 participating and completing work in that delivery
5 year in a procurement program of subsection (c) shall
6 submit a report to the Agency that demonstrates how it
7 achieved compliance with the minimum equity standards
8 percentage for that delivery year.

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

24 (E) The Agency shall pursue efficiencies achieved
25 by combining with other approved vendor or designee
26 reporting.

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

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

1 measures.

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

5 (A) The current status and number of equity
6 eligible contractors listed in the Energy Workforce
7 Equity Database designed in subsection (c-25),
8 including the number of equity eligible contractors
9 with current certifications as issued by the Agency.

10 (B) A mechanism for measuring, tracking, and
11 reporting project workforce at the approved vendor or
12 designee level, as applicable, which shall include a
13 measurement methodology and records to be made
14 available for audit by the Agency or the Program
15 Administrator.

16 (C) A program for approved vendors, designees,
17 eligible persons, and equity eligible contractors to
18 receive trainings, guidance, and other support from
19 the Agency or its designee regarding the equity
20 category outlined in item (vi) of subparagraph (K) of
21 paragraph (1) of subsection (c) and in meeting the
22 minimum equity standards of this subsection (c-10).

23 (D) A process for certifying equity eligible
24 contractors and equity eligible persons. The
25 certification process shall coordinate with the Energy
26 Workforce Equity Database set forth in subsection

1 (c-25).

2 (E) An application for waiver of the minimum
3 equity standards of this subsection, which the Agency
4 shall have the discretion to grant in rare
5 circumstances. The Agency may grant such a waiver
6 where the applicant provides evidence of significant
7 efforts toward meeting the minimum equity commitment,
8 including: use of the Energy Workforce Equity
9 Database; efforts to hire or contract with entities
10 that hire eligible persons; and efforts to establish
11 contracting relationships with eligible contractors.
12 The Agency shall support applicants in understanding
13 the Energy Workforce Equity Database and other
14 resources for pursuing compliance of the minimum
15 equity standards. Waivers shall be project-specific,
16 unless the Agency deems it necessary to grant a waiver
17 across a portfolio of projects, and in effect for no
18 longer than one year. Any waiver extension or
19 subsequent waiver request from an applicant shall be
20 subject to the requirements of this Section and shall
21 specify efforts made to reach compliance. When
22 considering whether to grant a waiver, and to what
23 extent, the Agency shall consider the degree to which
24 similarly situated applicants have been able to meet
25 these minimum equity commitments. For repeated waiver
26 requests for specific lack of eligible persons or

1 eligible contractors available, the Agency shall make
2 recommendations to target recruitment to add such
3 eligible persons or eligible contractors to the
4 database.

5 (5) The Agency shall collect information about work on
6 projects or portfolios of projects subject to these
7 minimum equity standards to ensure compliance with this
8 subsection (c-10). Reporting in furtherance of this
9 requirement may be combined with other annual reporting
10 requirements. Such reporting shall include proof of
11 certification of each equity eligible contractor or equity
12 eligible person during the applicable time period.

13 (6) The Agency shall keep confidential all information
14 and communication that provides private or personal
15 information.

16 (7) Modifications to the equity accountability system.
17 As part of the update of the long-term renewable resources
18 procurement plan to be initiated in 2023, or sooner if the
19 Agency deems necessary, the Agency shall determine the
20 extent to which the equity accountability system described
21 in this subsection (c-10) has advanced the goals of this
22 amendatory Act of the 102nd General Assembly, including
23 through the inclusion of equity eligible persons and
24 equity eligible contractors in renewable energy credit
25 projects. If the Agency finds that the equity
26 accountability system has failed to meet those goals to

1 its fullest potential, the Agency may revise the following
2 criteria for future Agency procurements: (A) the
3 percentage of project workforce, or other appropriate
4 workforce measure, certified as equity eligible persons or
5 equity eligible contractors; (B) definitions for equity
6 investment eligible persons and equity investment eligible
7 community; and (C) such other modifications necessary to
8 advance the goals of this amendatory Act of the 102nd
9 General Assembly effectively. Such revised criteria may
10 also establish distinct equity accountability systems for
11 different types of procurements or different regions of
12 the State if the Agency finds that doing so will further
13 the purposes of such programs. Revisions shall be
14 developed with stakeholder input, including from equity
15 eligible persons, equity eligible contractors, and
16 community-based organizations that work with such persons
17 and contractors.

18 (c-15) Racial discrimination elimination powers and
19 process.

20 (1) Purpose. It is the purpose of this subsection to
21 empower the Agency and other State actors to remedy racial
22 discrimination in Illinois' clean energy economy as
23 effectively and expediently as possible, including through
24 the use of race-conscious remedies, such as race-conscious
25 contracting and hiring goals, as consistent with State and
26 federal law.

1 (2) Racial disparity and discrimination review
2 process.

3 (A) Within one year after awarding contracts using
4 the equity actions processes established in this
5 Section, the Agency shall publish a report evaluating
6 the effectiveness of the equity actions point criteria
7 of this Section in increasing participation of equity
8 eligible persons and equity eligible contractors. The
9 report shall disaggregate participating workers and
10 contractors by race and ethnicity. The report shall be
11 forwarded to the Governor, the General Assembly, and
12 the Illinois Commerce Commission and be made available
13 to the public.

14 (B) As soon as is practicable thereafter, the
15 Agency, in consultation with the Department of
16 Commerce and Economic Opportunity, Department of
17 Labor, and other agencies that may be relevant, shall
18 commission and publish a disparity and availability
19 study that measures the presence and impact of
20 discrimination on minority businesses and workers in
21 Illinois' clean energy economy. The Agency may hire
22 consultants and experts to conduct the disparity and
23 availability study, with the retention of those
24 consultants and experts exempt from the requirements
25 of Section 20-10 of the Illinois Procurement Code. The
26 Illinois Power Agency shall forward a copy of its

1 findings and recommendations to the Governor, the
2 General Assembly, and the Illinois Commerce
3 Commission. If the disparity and availability study
4 establishes a strong basis in evidence that there is
5 discrimination in Illinois' clean energy economy, the
6 Agency, Department of Commerce and Economic
7 Opportunity, Department of Labor, Department of
8 Corrections, and other appropriate agencies shall take
9 appropriate remedial actions, including race-conscious
10 remedial actions as consistent with State and federal
11 law, to effectively remedy this discrimination. Such
12 remedies may include modification of the equity
13 accountability system as described in subsection
14 (c-10).

15 (c-20) Program data collection.

16 (1) Purpose. Data collection, data analysis, and
17 reporting are critical to ensure that the benefits of the
18 clean energy economy provided to Illinois residents and
19 businesses are equitably distributed across the State. The
20 Agency shall collect data from program applicants in order
21 to track and improve equitable distribution of benefits
22 across Illinois communities for all procurements the
23 Agency conducts. The Agency shall use this data to, among
24 other things, measure any potential impact of racial
25 discrimination on the distribution of benefits and provide
26 information necessary to correct any discrimination

1 through methods consistent with State and federal law.

2 (2) Agency collection of program data. The Agency
3 shall collect demographic and geographic data for each
4 entity awarded contracts under any Agency-administered
5 program.

6 (3) Required information to be collected. The Agency
7 shall collect the following information from applicants
8 and program participants where applicable:

9 (A) demographic information, including racial or
10 ethnic identity for real persons employed, contracted,
11 or subcontracted through the program and owners of
12 businesses or entities that apply to receive renewable
13 energy credits from the Agency;

14 (B) geographic location of the residency of real
15 persons employed, contracted, or subcontracted through
16 the program and geographic location of the
17 headquarters of the business or entity that applies to
18 receive renewable energy credits from the Agency; and

19 (C) any other information the Agency determines is
20 necessary for the purpose of achieving the purpose of
21 this subsection.

22 (4) Publication of collected information. The Agency
23 shall publish, at least annually, information on the
24 demographics of program participants on an aggregate
25 basis.

26 (5) Nothing in this subsection shall be interpreted to

1 limit the authority of the Agency, or other agency or
2 department of the State, to require or collect demographic
3 information from applicants of other State programs.

4 (c-25) Energy Workforce Equity Database.

5 (1) The Agency, in consultation with the Department of
6 Commerce and Economic Opportunity, shall create an Energy
7 Workforce Equity Database, and may contract with a third
8 party to do so ("database program administrator"). If the
9 Department decides to contract with a third party, that
10 third party shall be exempt from the requirements of
11 Section 20-10 of the Illinois Procurement Code. The Energy
12 Workforce Equity Database shall be a searchable database
13 of suppliers, vendors, and subcontractors for clean energy
14 industries that is:

15 (A) publicly accessible;

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

17 (C) organized by company specialty or field;

18 (D) region-specific; and

19 (E) populated with information including, but not
20 limited to, contacts for suppliers, vendors, or
21 subcontractors who are minority and women-owned
22 business enterprise certified or who participate or
23 have participated in any of the programs described in
24 this Act.

25 (2) The Agency shall create an easily accessible,
26 public facing online tool using the database information

1 that includes, at a minimum, the following:

2 (A) a map of environmental justice and equity
3 investment eligible communities;

4 (B) job postings and recruiting opportunities;

5 (C) a means by which recruiting clean energy
6 companies can find and interact with current or former
7 participants of clean energy workforce training
8 programs;

9 (D) information on workforce training service
10 providers and training opportunities available to
11 prospective workers;

12 (E) renewable energy company diversity reporting;

13 (F) a list of equity eligible contractors with
14 their contact information, types of work performed,
15 and locations worked in;

16 (G) reporting on outcomes of the programs
17 described in the workforce programs of the Energy
18 Transition Act, including information such as, but not
19 limited to, retention rate, graduation rate, and
20 placement rates of trainees; and

21 (H) information about the Jobs and Environmental
22 Justice Grant Program, the Clean Energy Jobs and
23 Justice Fund, and other sources of capital.

24 (3) The Agency shall ensure the database is regularly
25 updated to ensure information is current and shall
26 coordinate with the Department of Commerce and Economic

1 Opportunity to ensure that it includes information on
2 individuals and entities that are or have participated in
3 the Clean Jobs Workforce Network Program, Clean Energy
4 Contractor Incubator Program, Returning Residents Clean
5 Jobs Training Program, or Clean Energy Primes Contractor
6 Accelerator Program.

7 (c-30) Enforcement of minimum equity standards. All
8 entities seeking renewable energy credits must submit an
9 annual report to demonstrate compliance with each of the
10 equity commitments required under subsection (c-10). If the
11 Agency concludes the entity has not met or maintained its
12 minimum equity standards required under the applicable
13 subparagraphs under subsection (c-10), the Agency shall deny
14 the entity's ability to participate in procurement programs in
15 subsection (c), including by withholding approved vendor or
16 designee status. The Agency may require the entity to enter
17 into a corrective action plan. An entity that is not
18 recertified for failing to meet required equity actions in
19 subparagraph (c-10) may reapply once they have a corrective
20 action plan and achieve compliance with the minimum equity
21 standards.

22 (d) Clean coal portfolio standard.

23 (1) The procurement plans shall include electricity
24 generated using clean coal. Each utility shall enter into
25 one or more sourcing agreements with the initial clean
26 coal facility, as provided in paragraph (3) of this

1 subsection (d), covering electricity generated by the
2 initial clean coal facility representing at least 5% of
3 each utility's total supply to serve the load of eligible
4 retail customers in 2015 and each year thereafter, as
5 described in paragraph (3) of this subsection (d), subject
6 to the limits specified in paragraph (2) of this
7 subsection (d). It is the goal of the State that by January
8 1, 2025, 25% of the electricity used in the State shall be
9 generated by cost-effective clean coal facilities. For
10 purposes of this subsection (d), "cost-effective" means
11 that the expenditures pursuant to such sourcing agreements
12 do not cause the limit stated in paragraph (2) of this
13 subsection (d) to be exceeded and do not exceed cost-based
14 benchmarks, which shall be developed to assess all
15 expenditures pursuant to such sourcing agreements covering
16 electricity generated by clean coal facilities, other than
17 the initial clean coal facility, 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.

21 A utility party to a sourcing agreement shall
22 immediately retire any emission credits that it receives
23 in connection with the electricity covered by such
24 agreement.

25 Utilities shall maintain adequate records documenting
26 the purchases under the sourcing agreement to comply with

1 this subsection (d) and shall file an accounting with the
2 load forecast that must be filed with the Agency by July 15
3 of each year, in accordance with subsection (d) of Section
4 16-111.5 of the Public Utilities Act.

5 A utility shall be deemed to have complied with the
6 clean coal portfolio standard specified in this subsection
7 (d) if the utility enters into a sourcing agreement as
8 required by this subsection (d).

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

23 Notwithstanding the requirements of this subsection
24 (d), the total amount paid under sourcing agreements with
25 clean coal facilities pursuant to the procurement plan for
26 any given year shall be reduced by an amount necessary to

1 limit the annual estimated average net increase due to the
2 costs of these resources included in the amounts paid by
3 eligible retail customers in connection with electric
4 service to:

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

8 (B) in 2011, the greater of an additional 0.5% of
9 the amount paid per kilowatthour by those customers
10 during the year ending May 31, 2010 or 1% of the amount
11 paid per kilowatthour by those customers during the
12 year ending May 31, 2009;

13 (C) in 2012, the greater of an additional 0.5% of
14 the amount paid per kilowatthour by those customers
15 during the year ending May 31, 2011 or 1.5% of the
16 amount paid per kilowatthour by those customers during
17 the year ending May 31, 2009;

18 (D) in 2013, the greater of an additional 0.5% of
19 the amount paid per kilowatthour by those customers
20 during the year ending May 31, 2012 or 2% of the amount
21 paid per kilowatthour by those customers during the
22 year ending May 31, 2009; and

23 (E) thereafter, the total amount paid under
24 sourcing agreements with clean coal facilities
25 pursuant to the procurement plan for any single year
26 shall be reduced by an amount necessary to limit the

1 estimated average net increase due to the cost of
2 these resources included in the amounts paid by
3 eligible retail customers in connection with electric
4 service to no more than the greater of (i) 2.015% of
5 the amount paid per kilowatthour by those customers
6 during the year ending May 31, 2009 or (ii) the
7 incremental amount per kilowatthour paid for these
8 resources in 2013. These requirements may be altered
9 only as provided by statute.

10 No later than June 30, 2015, the Commission shall
11 review the limitation on the total amount paid under
12 sourcing agreements, if any, with clean coal facilities
13 pursuant to this subsection (d) and report to the General
14 Assembly its findings as to whether that limitation unduly
15 constrains the amount of electricity generated by
16 cost-effective clean coal facilities that is covered by
17 sourcing agreements.

18 (3) Initial clean coal facility. In order to promote
19 development of clean coal facilities in Illinois, each
20 electric utility subject to this Section shall execute a
21 sourcing agreement to source electricity from a proposed
22 clean coal facility in Illinois (the "initial clean coal
23 facility") that will have a nameplate capacity of at least
24 500 MW when commercial operation commences, that has a
25 final Clean Air Act permit on June 1, 2009 (the effective
26 date of Public Act 95-1027), and that will meet the

1 definition of clean coal facility in Section 1-10 of this
2 Act when commercial operation commences. The sourcing
3 agreements with this initial clean coal facility shall be
4 subject to both approval of the initial clean coal
5 facility by the General Assembly and satisfaction of the
6 requirements of paragraph (4) of this subsection (d) and
7 shall be executed within 90 days after any such approval
8 by the General Assembly. The Agency and the Commission
9 shall have authority to inspect all books and records
10 associated with the initial clean coal facility during the
11 term of such a sourcing agreement. A utility's sourcing
12 agreement for electricity produced by the initial clean
13 coal facility shall include:

14 (A) a formula contractual price (the "contract
15 price") approved pursuant to paragraph (4) of this
16 subsection (d), which shall:

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

1 (ii) provide that all miscellaneous net
2 revenue, including but not limited to net revenue
3 from the sale of emission allowances, if any,
4 substitute natural gas, if any, grants or other
5 support provided by the State of Illinois or the
6 United States Government, firm transmission
7 rights, if any, by-products produced by the
8 facility, energy or capacity derived from the
9 facility and not covered by a sourcing agreement
10 pursuant to paragraph (3) of this subsection (d)
11 or item (5) of subsection (d) of Section 16-115 of
12 the Public Utilities Act, whether generated from
13 the synthesis gas derived from coal, from SNG, or
14 from natural gas, shall be credited against the
15 revenue requirement for this initial clean coal
16 facility;

17 (B) power purchase provisions, which shall:

18 (i) provide that the utility party to such
19 sourcing agreement shall pay the contract price
20 for electricity delivered under such sourcing
21 agreement;

22 (ii) require delivery of electricity to the
23 regional transmission organization market of the
24 utility that is party to such sourcing agreement;

25 (iii) require the utility party to such
26 sourcing agreement to buy from the initial clean

1 coal facility in each hour an amount of energy
2 equal to all clean coal energy made available from
3 the initial clean coal facility during such hour
4 times a fraction, the numerator of which is such
5 utility's retail market sales of electricity
6 (expressed in kilowatthours sold) in the State
7 during the prior calendar month and the
8 denominator of which is the total retail market
9 sales of electricity (expressed in kilowatthours
10 sold) in the State by utilities during such prior
11 month and the sales of electricity (expressed in
12 kilowatthours sold) in the State by alternative
13 retail electric suppliers during such prior month
14 that are subject to the requirements of this
15 subsection (d) and paragraph (5) of subsection (d)
16 of Section 16-115 of the Public Utilities Act,
17 provided that the amount purchased by the utility
18 in any year will be limited by paragraph (2) of
19 this subsection (d); and

20 (iv) be considered pre-existing contracts in
21 such utility's procurement plans for eligible
22 retail customers;

23 (C) contract for differences provisions, which
24 shall:

25 (i) require the utility party to such sourcing
26 agreement to contract with the initial clean coal

1 facility in each hour with respect to an amount of
2 energy equal to all clean coal energy made
3 available from the initial clean coal facility
4 during such hour times a fraction, the numerator
5 of which is such utility's retail market sales of
6 electricity (expressed in kilowatthours sold) in
7 the utility's service territory in the State
8 during the prior calendar month and the
9 denominator of which is the total retail market
10 sales of electricity (expressed in kilowatthours
11 sold) in the State by utilities during such prior
12 month and the sales of electricity (expressed in
13 kilowatthours sold) in the State by alternative
14 retail electric suppliers during such prior month
15 that are subject to the requirements of this
16 subsection (d) and paragraph (5) of subsection (d)
17 of Section 16-115 of the Public Utilities Act,
18 provided that the amount paid by the utility in
19 any year will be limited by paragraph (2) of this
20 subsection (d);

21 (ii) provide that the utility's payment
22 obligation in respect of the quantity of
23 electricity determined pursuant to the preceding
24 clause (i) shall be limited to an amount equal to
25 (1) the difference between the contract price
26 determined pursuant to subparagraph (A) of

1 paragraph (3) of this subsection (d) and the
2 day-ahead price for electricity delivered to the
3 regional transmission organization market of the
4 utility that is party to such sourcing agreement
5 (or any successor delivery point at which such
6 utility's supply obligations are financially
7 settled on an hourly basis) (the "reference
8 price") on the day preceding the day on which the
9 electricity is delivered to the initial clean coal
10 facility busbar, multiplied by (2) the quantity of
11 electricity determined pursuant to the preceding
12 clause (i); and

13 (iii) not require the utility to take physical
14 delivery of the electricity produced by the
15 facility;

16 (D) general provisions, which shall:

17 (i) specify a term of no more than 30 years,
18 commencing on the commercial operation date of the
19 facility;

20 (ii) provide that utilities shall maintain
21 adequate records documenting purchases under the
22 sourcing agreements entered into to comply with
23 this subsection (d) and shall file an accounting
24 with the load forecast that must be filed with the
25 Agency by July 15 of each year, in accordance with
26 subsection (d) of Section 16-111.5 of the Public

1 Utilities Act;

2 (iii) provide that all costs associated with
3 the initial clean coal facility will be
4 periodically reported to the Federal Energy
5 Regulatory Commission and to purchasers in
6 accordance with applicable laws governing
7 cost-based wholesale power contracts;

8 (iv) permit the Illinois Power Agency to
9 assume ownership of the initial clean coal
10 facility, without monetary consideration and
11 otherwise on reasonable terms acceptable to the
12 Agency, if the Agency so requests no less than 3
13 years prior to the end of the stated contract
14 term;

15 (v) require the owner of the initial clean
16 coal facility to provide documentation to the
17 Commission each year, starting in the facility's
18 first year of commercial operation, accurately
19 reporting the quantity of carbon emissions from
20 the facility that have been captured and
21 sequestered and report any quantities of carbon
22 released from the site or sites at which carbon
23 emissions were sequestered in prior years, based
24 on continuous monitoring of such sites. If, in any
25 year after the first year of commercial operation,
26 the owner of the facility fails to demonstrate

1 that the initial clean coal facility captured and
2 sequestered at least 50% of the total carbon
3 emissions that the facility would otherwise emit
4 or that sequestration of emissions from prior
5 years has failed, resulting in the release of
6 carbon dioxide into the atmosphere, the owner of
7 the facility must offset excess emissions. Any
8 such carbon offsets must be permanent, additional,
9 verifiable, real, located within the State of
10 Illinois, and legally and practicably enforceable.
11 The cost of such offsets for the facility that are
12 not recoverable shall not exceed \$15 million in
13 any given year. No costs of any such purchases of
14 carbon offsets may be recovered from a utility or
15 its customers. All carbon offsets purchased for
16 this purpose and any carbon emission credits
17 associated with sequestration of carbon from the
18 facility must be permanently retired. The initial
19 clean coal facility shall not forfeit its
20 designation as a clean coal facility if the
21 facility fails to fully comply with the applicable
22 carbon sequestration requirements in any given
23 year, provided the requisite offsets are
24 purchased. However, the Attorney General, on
25 behalf of the People of the State of Illinois, may
26 specifically enforce the facility's sequestration

1 requirement and the other terms of this contract
2 provision. Compliance with the sequestration
3 requirements and offset purchase requirements
4 specified in paragraph (3) of this subsection (d)
5 shall be reviewed annually by an independent
6 expert retained by the owner of the initial clean
7 coal facility, with the advance written approval
8 of the Attorney General. The Commission may, in
9 the course of the review specified in item (vii),
10 reduce the allowable return on equity for the
11 facility if the facility willfully fails to comply
12 with the carbon capture and sequestration
13 requirements set forth in this item (v);

14 (vi) include limits on, and accordingly
15 provide for modification of, the amount the
16 utility is required to source under the sourcing
17 agreement consistent with paragraph (2) of this
18 subsection (d);

19 (vii) require Commission review: (1) to
20 determine the justness, reasonableness, and
21 prudence of the inputs to the formula referenced
22 in subparagraphs (A)(i) through (A)(iii) of
23 paragraph (3) of this subsection (d), prior to an
24 adjustment in those inputs including, without
25 limitation, the capital structure and return on
26 equity, fuel costs, and other operations and

1 maintenance costs and (2) to approve the costs to
2 be passed through to customers under the sourcing
3 agreement by which the utility satisfies its
4 statutory obligations. Commission review shall
5 occur no less than every 3 years, regardless of
6 whether any adjustments have been proposed, and
7 shall be completed within 9 months;

8 (viii) limit the utility's obligation to such
9 amount as the utility is allowed to recover
10 through tariffs filed with the Commission,
11 provided that neither the clean coal facility nor
12 the utility waives any right to assert federal
13 pre-emption or any other argument in response to a
14 purported disallowance of recovery costs;

15 (ix) limit the utility's or alternative retail
16 electric supplier's obligation to incur any
17 liability until such time as the facility is in
18 commercial operation and generating power and
19 energy and such power and energy is being
20 delivered to the facility busbar;

21 (x) provide that the owner or owners of the
22 initial clean coal facility, which is the
23 counterparty to such sourcing agreement, shall
24 have the right from time to time to elect whether
25 the obligations of the utility party thereto shall
26 be governed by the power purchase provisions or

1 the contract for differences provisions;

2 (xi) append documentation showing that the
3 formula rate and contract, insofar as they relate
4 to the power purchase provisions, have been
5 approved by the Federal Energy Regulatory
6 Commission pursuant to Section 205 of the Federal
7 Power Act;

8 (xii) provide that any changes to the terms of
9 the contract, insofar as such changes relate to
10 the power purchase provisions, are subject to
11 review under the public interest standard applied
12 by the Federal Energy Regulatory Commission
13 pursuant to Sections 205 and 206 of the Federal
14 Power Act; and

15 (xiii) conform with customary lender
16 requirements in power purchase agreements used as
17 the basis for financing non-utility generators.

18 (4) Effective date of sourcing agreements with the
19 initial clean coal facility. Any proposed sourcing
20 agreement with the initial clean coal facility shall not
21 become effective unless the following reports are prepared
22 and submitted and authorizations and approvals obtained:

23 (i) Facility cost report. The owner of the initial
24 clean coal facility shall submit to the Commission,
25 the Agency, and the General Assembly a front-end
26 engineering and design study, a facility cost report,

1 method of financing (including but not limited to
2 structure and associated costs), and an operating and
3 maintenance cost quote for the facility (collectively
4 "facility cost report"), which shall be prepared in
5 accordance with the requirements of this paragraph (4)
6 of subsection (d) of this Section, and shall provide
7 the Commission and the Agency access to the work
8 papers, relied upon documents, and any other backup
9 documentation related to the facility cost report.

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

1 experts or consultants, the costs of which shall be
2 paid for by the owner of the initial clean coal
3 facility. The Commission and Agency may begin the
4 process of selecting such experts or consultants prior
5 to receipt of the facility cost report.

6 (iii) General Assembly approval. The proposed
7 sourcing agreements shall not take effect unless,
8 based on the facility cost report and the Commission's
9 report, the General Assembly enacts authorizing
10 legislation approving (A) the projected price, stated
11 in cents per kilowatthour, to be charged for
12 electricity generated by the initial clean coal
13 facility, (B) the projected impact on residential and
14 small business customers' bills over the life of the
15 sourcing agreements, and (C) the maximum allowable
16 return on equity for the project; and

17 (iv) Commission review. If the General Assembly
18 enacts authorizing legislation pursuant to
19 subparagraph (iii) approving a sourcing agreement, the
20 Commission shall, within 90 days of such enactment,
21 complete a review of such sourcing agreement. During
22 such time period, the Commission shall implement any
23 directive of the General Assembly, resolve any
24 disputes between the parties to the sourcing agreement
25 concerning the terms of such agreement, approve the
26 form of such agreement, and issue an order finding

1 that the sourcing agreement is prudent and reasonable.

2 The facility cost report shall be prepared as follows:

3 (A) The facility cost report shall be prepared by
4 duly licensed engineering and construction firms
5 detailing the estimated capital costs payable to one
6 or more contractors or suppliers for the engineering,
7 procurement and construction of the components
8 comprising the initial clean coal facility and the
9 estimated costs of operation and maintenance of the
10 facility. The facility cost report shall include:

11 (i) an estimate of the capital cost of the
12 core plant based on one or more front end
13 engineering and design studies for the
14 gasification island and related facilities. The
15 core plant shall include all civil, structural,
16 mechanical, electrical, control, and safety
17 systems.

18 (ii) an estimate of the capital cost of the
19 balance of the plant, including any capital costs
20 associated with sequestration of carbon dioxide
21 emissions and all interconnects and interfaces
22 required to operate the facility, such as
23 transmission of electricity, construction or
24 backfeed power supply, pipelines to transport
25 substitute natural gas or carbon dioxide, potable
26 water supply, natural gas supply, water supply,

1 water discharge, landfill, access roads, and coal
2 delivery.

3 The quoted construction costs shall be expressed
4 in nominal dollars as of the date that the quote is
5 prepared and shall include capitalized financing costs
6 during construction, taxes, insurance, and other
7 owner's costs, and an assumed escalation in materials
8 and labor beyond the date as of which the construction
9 cost quote is expressed.

10 (B) The front end engineering and design study for
11 the gasification island and the cost study for the
12 balance of plant shall include sufficient design work
13 to permit quantification of major categories of
14 materials, commodities and labor hours, and receipt of
15 quotes from vendors of major equipment required to
16 construct and operate the clean coal facility.

17 (C) The facility cost report shall also include an
18 operating and maintenance cost quote that will provide
19 the estimated cost of delivered fuel, personnel,
20 maintenance contracts, chemicals, catalysts,
21 consumables, spares, and other fixed and variable
22 operations and maintenance costs. The delivered fuel
23 cost estimate will be provided by a recognized third
24 party expert or experts in the fuel and transportation
25 industries. The balance of the operating and
26 maintenance cost quote, excluding delivered fuel

1 costs, will be developed based on the inputs provided
2 by duly licensed engineering and construction firms
3 performing the construction cost quote, potential
4 vendors under long-term service agreements and plant
5 operating agreements, or recognized third party plant
6 operator or operators.

7 The operating and maintenance cost quote
8 (including the cost of the front end engineering and
9 design study) shall be expressed in nominal dollars as
10 of the date that the quote is prepared and shall
11 include taxes, insurance, and other owner's costs, and
12 an assumed escalation in materials and labor beyond
13 the date as of which the operating and maintenance
14 cost quote is expressed.

15 (D) The facility cost report shall also include an
16 analysis of the initial clean coal facility's ability
17 to deliver power and energy into the applicable
18 regional transmission organization markets and an
19 analysis of the expected capacity factor for the
20 initial clean coal facility.

21 (E) Amounts paid to third parties unrelated to the
22 owner or owners of the initial clean coal facility to
23 prepare the core plant construction cost quote,
24 including the front end engineering and design study,
25 and the operating and maintenance cost quote will be
26 reimbursed through Coal Development Bonds.

1 (5) Re-powering and retrofitting coal-fired power
2 plants previously owned by Illinois utilities to qualify
3 as clean coal facilities. During the 2009 procurement
4 planning process and thereafter, the Agency and the
5 Commission shall consider sourcing agreements covering
6 electricity generated by power plants that were previously
7 owned by Illinois utilities and that have been or will be
8 converted into clean coal facilities, as defined by
9 Section 1-10 of this Act. Pursuant to such procurement
10 planning process, the owners of such facilities may
11 propose to the Agency sourcing agreements with utilities
12 and alternative retail electric suppliers required to
13 comply with subsection (d) of this Section and item (5) of
14 subsection (d) of Section 16-115 of the Public Utilities
15 Act, covering electricity generated by such facilities. In
16 the case of sourcing agreements that are power purchase
17 agreements, the contract price for electricity sales shall
18 be established on a cost of service basis. In the case of
19 sourcing agreements that are contracts for differences,
20 the contract price from which the reference price is
21 subtracted shall be established on a cost of service
22 basis. The Agency and the Commission may approve any such
23 utility sourcing agreements that do not exceed cost-based
24 benchmarks developed by the procurement administrator, in
25 consultation with the Commission staff, Agency staff and
26 the procurement monitor, subject to Commission review and

1 approval. The Commission shall have authority to inspect
2 all books and records associated with these clean coal
3 facilities during the term of any such contract.

4 (6) Costs incurred under this subsection (d) or
5 pursuant to a contract entered into under this subsection
6 (d) shall be deemed prudently incurred and reasonable in
7 amount and the electric utility shall be entitled to full
8 cost recovery pursuant to the tariffs filed with the
9 Commission.

10 (d-5) Zero emission standard.

11 (1) Beginning with the delivery year commencing on
12 June 1, 2017, the Agency shall, for electric utilities
13 that serve at least 100,000 retail customers in this
14 State, procure contracts with zero emission facilities
15 that are reasonably capable of generating cost-effective
16 zero emission credits in an amount approximately equal to
17 16% of the actual amount of electricity delivered by each
18 electric utility to retail customers in the State during
19 calendar year 2014. For an electric utility serving fewer
20 than 100,000 retail customers in this State that
21 requested, under Section 16-111.5 of the Public Utilities
22 Act, that the Agency procure power and energy for all or a
23 portion of the utility's Illinois load for the delivery
24 year commencing June 1, 2016, the Agency shall procure
25 contracts with zero emission facilities that are
26 reasonably capable of generating cost-effective zero

1 emission credits in an amount approximately equal to 16%
2 of the portion of power and energy to be procured by the
3 Agency for the utility. The duration of the contracts
4 procured under this subsection (d-5) shall be for a term
5 of 10 years ending May 31, 2027. The quantity of zero
6 emission credits to be procured under the contracts shall
7 be all of the zero emission credits generated by the zero
8 emission facility in each delivery year; however, if the
9 zero emission facility is owned by more than one entity,
10 then the quantity of zero emission credits to be procured
11 under the contracts shall be the amount of zero emission
12 credits that are generated from the portion of the zero
13 emission facility that is owned by the winning supplier.

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

18 The procurement process shall be subject to the
19 following provisions:

20 (A) Those zero emission facilities that intend to
21 participate in the procurement shall submit to the
22 Agency the following eligibility information for each
23 zero emission facility on or before the date
24 established by the Agency:

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

1 (ii) the amount of power generated annually
2 for each of the years 2005 through 2015, and the
3 projected zero emission credits to be generated
4 over the remaining useful life of the zero
5 emission facility, which shall be used to
6 determine the capability of each facility;

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

23 (iv) a commitment to continue operating, for
24 the duration of the contract or contracts executed
25 under the procurement held under this subsection
26 (d-5), the zero emission facility that produces

1 the zero emission credits to be procured in the
2 procurement.

3 The information described in item (iii) of this
4 subparagraph (A) may be submitted on a confidential
5 basis and shall be treated and maintained by the
6 Agency, the procurement administrator, and the
7 Commission as confidential and proprietary and exempt
8 from disclosure under subparagraphs (a) and (g) of
9 paragraph (1) of Section 7 of the Freedom of
10 Information Act. The Office of Attorney General shall
11 have access to, and maintain the confidentiality of,
12 such information pursuant to Section 6.5 of the
13 Attorney General Act.

14 (B) The price for each zero emission credit
15 procured under this subsection (d-5) for each delivery
16 year shall be in an amount that equals the Social Cost
17 of Carbon, expressed on a price per megawatthour
18 basis. However, to ensure that the procurement remains
19 affordable to retail customers in this State if
20 electricity prices increase, the price in an
21 applicable delivery year shall be reduced below the
22 Social Cost of Carbon by the amount ("Price
23 Adjustment") by which the market price index for the
24 applicable delivery year exceeds the baseline market
25 price index for the consecutive 12-month period ending
26 May 31, 2016. If the Price Adjustment is greater than

1 or equal to the Social Cost of Carbon in an applicable
2 delivery year, then no payments shall be due in that
3 delivery year. The components of this calculation are
4 defined as follows:

5 (i) Social Cost of Carbon: The Social Cost of
6 Carbon is \$16.50 per megawatthour, which is based
7 on the U.S. Interagency Working Group on Social
8 Cost of Carbon's price in the August 2016
9 Technical Update using a 3% discount rate,
10 adjusted for inflation for each year of the
11 program. Beginning with the delivery year
12 commencing June 1, 2023, the price per
13 megawatthour shall increase by \$1 per
14 megawatthour, and continue to increase by an
15 additional \$1 per megawatthour each delivery year
16 thereafter.

17 (ii) Baseline market price index: The baseline
18 market price index for the consecutive 12-month
19 period ending May 31, 2016 is \$31.40 per
20 megawatthour, which is based on the sum of (aa)
21 the average day-ahead energy price across all
22 hours of such 12-month period at the PJM
23 Interconnection LLC Northern Illinois Hub, (bb)
24 50% multiplied by the Base Residual Auction, or
25 its successor, capacity price for the rest of the
26 RTO zone group determined by PJM Interconnection

1 LLC, divided by 24 hours per day, and (cc) 50%
2 multiplied by the Planning Resource Auction, or
3 its successor, capacity price for Zone 4
4 determined by the Midcontinent Independent System
5 Operator, Inc., divided by 24 hours per day.

6 (iii) Market price index: The market price
7 index for a delivery year shall be the sum of
8 projected energy prices and projected capacity
9 prices determined as follows:

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

25 (bb) Projected capacity prices:

26 (I) For the delivery years commencing

1 June 1, 2017, June 1, 2018, and June 1,
2 2019, the projected capacity price shall
3 be equal to the sum of (1) 50% multiplied
4 by the Base Residual Auction, or its
5 successor, price for the rest of the RTO
6 zone group as determined by PJM
7 Interconnection LLC, divided by 24 hours
8 per day and, (2) 50% multiplied by the
9 resource auction price determined in the
10 resource auction administered by the
11 Midcontinent Independent System Operator,
12 Inc., in which the largest percentage of
13 load cleared for Local Resource Zone 4,
14 divided by 24 hours per day, and where
15 such price is determined by the
16 Midcontinent Independent System Operator,
17 Inc.

18 (II) For the delivery year commencing
19 June 1, 2020, and each year thereafter,
20 the projected capacity price shall be
21 equal to the sum of (1) 50% multiplied by
22 the Base Residual Auction, or its
23 successor, price for the ComEd zone as
24 determined by PJM Interconnection LLC,
25 divided by 24 hours per day, and (2) 50%
26 multiplied by the resource auction price

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

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

10 "Rest of the RTO" and "ComEd Zone" shall have
11 the meaning ascribed to them by PJM
12 Interconnection, LLC.

13 "RTO" means regional transmission
14 organization.

15 (C) No later than 45 days after June 1, 2017 (the
16 effective date of Public Act 99-906), the Agency shall
17 publish its proposed zero emission standard
18 procurement plan. The plan shall be consistent with
19 the provisions of this paragraph (1) and shall provide
20 that winning bids shall be selected based on public
21 interest criteria that include, but are not limited
22 to, minimizing carbon dioxide emissions that result
23 from electricity consumed in Illinois and minimizing
24 sulfur dioxide, nitrogen oxide, and particulate matter
25 emissions that adversely affect the citizens of this
26 State. In particular, the selection of winning bids

1 shall take into account the incremental environmental
2 benefits resulting from the procurement, such as any
3 existing environmental benefits that are preserved by
4 the procurements held under Public Act 99-906 and
5 would cease to exist if the procurements were not
6 held, including the preservation of zero emission
7 facilities. The plan shall also describe in detail how
8 each public interest factor shall be considered and
9 weighted in the bid selection process to ensure that
10 the public interest criteria are applied to the
11 procurement and given full effect.

12 For purposes of developing the plan, the Agency
13 shall consider any reports issued by a State agency,
14 board, or commission under House Resolution 1146 of
15 the 98th General Assembly and paragraph (4) of
16 subsection (d) of this Section, as well as publicly
17 available analyses and studies performed by or for
18 regional transmission organizations that serve the
19 State and their independent market monitors.

20 Upon publishing of the zero emission standard
21 procurement plan, copies of the plan shall be posted
22 and made publicly available on the Agency's website.
23 All interested parties shall have 10 days following
24 the date of posting to provide comment to the Agency on
25 the plan. All comments shall be posted to the Agency's
26 website. Following the end of the comment period, but

1 no more than 60 days later than June 1, 2017 (the
2 effective date of Public Act 99-906), the Agency shall
3 revise the plan as necessary based on the comments
4 received and file its zero emission standard
5 procurement plan with the Commission.

6 If the Commission determines that the plan will
7 result in the procurement of cost-effective zero
8 emission credits, then the Commission shall, after
9 notice and hearing, but no later than 45 days after the
10 Agency filed the plan, approve the plan or approve
11 with modification. For purposes of this subsection
12 (d-5), "cost effective" means the projected costs of
13 procuring zero emission credits from zero emission
14 facilities do not cause the limit stated in paragraph
15 (2) of this subsection to be exceeded.

16 (C-5) As part of the Commission's review and
17 acceptance or rejection of the procurement results,
18 the Commission shall, in its public notice of
19 successful bidders:

20 (i) identify how the winning bids satisfy the
21 public interest criteria described in subparagraph
22 (C) of this paragraph (1) of minimizing carbon
23 dioxide emissions that result from electricity
24 consumed in Illinois and minimizing sulfur
25 dioxide, nitrogen oxide, and particulate matter
26 emissions that adversely affect the citizens of

1 this State;

2 (ii) specifically address how the selection of
3 winning bids takes into account the incremental
4 environmental benefits resulting from the
5 procurement, including any existing environmental
6 benefits that are preserved by the procurements
7 held under Public Act 99-906 and would have ceased
8 to exist if the procurements had not been held,
9 such as the preservation of zero emission
10 facilities;

11 (iii) quantify the environmental benefit of
12 preserving the resources identified in item (ii)
13 of this subparagraph (C-5), including the
14 following:

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

25 (bb) the costs of replacement with other
26 zero carbon dioxide resources, including wind

1 and photovoltaic, based upon the simple
2 average of the following:

3 (I) the price, or if there is more
4 than one price, the average of the prices,
5 paid for renewable energy credits from new
6 utility-scale wind projects in the
7 procurement events specified in item (i)
8 of subparagraph (G) of paragraph (1) of
9 subsection (c) of this Section; and

10 (II) the price, or if there is more
11 than one price, the average of the prices,
12 paid for renewable energy credits from new
13 utility-scale solar projects and
14 brownfield site photovoltaic projects in
15 the procurement events specified in item
16 (ii) of subparagraph (G) of paragraph (1)
17 of subsection (c) of this Section and,
18 after January 1, 2015, renewable energy
19 credits from photovoltaic distributed
20 generation projects in procurement events
21 held under subsection (c) of this Section.

22 Each utility shall enter into binding contractual
23 arrangements with the winning suppliers.

24 The procurement described in this subsection
25 (d-5), including, but not limited to, the execution of
26 all contracts procured, shall be completed no later

1 than May 10, 2017. Based on the effective date of
2 Public Act 99-906, the Agency and Commission may, as
3 appropriate, modify the various dates and timelines
4 under this subparagraph and subparagraphs (C) and (D)
5 of this paragraph (1). The procurement and plan
6 approval processes required by this subsection (d-5)
7 shall be conducted in conjunction with the procurement
8 and plan approval processes required by subsection (c)
9 of this Section and Section 16-111.5 of the Public
10 Utilities Act, to the extent practicable.
11 Notwithstanding whether a procurement event is
12 conducted under Section 16-111.5 of the Public
13 Utilities Act, the Agency shall immediately initiate a
14 procurement process on June 1, 2017 (the effective
15 date of Public Act 99-906).

16 (D) Following the procurement event described in
17 this paragraph (1) and consistent with subparagraph
18 (B) of this paragraph (1), the Agency shall calculate
19 the payments to be made under each contract for the
20 next delivery year based on the market price index for
21 that delivery year. The Agency shall publish the
22 payment calculations no later than May 25, 2017 and
23 every May 25 thereafter.

24 (E) Notwithstanding the requirements of this
25 subsection (d-5), the contracts executed under this
26 subsection (d-5) shall provide that the zero emission

1 facility may, as applicable, suspend or terminate
2 performance under the contracts in the following
3 instances:

4 (i) A zero emission facility shall be excused
5 from its performance under the contract for any
6 cause beyond the control of the resource,
7 including, but not restricted to, acts of God,
8 flood, drought, earthquake, storm, fire,
9 lightning, epidemic, war, riot, civil disturbance
10 or disobedience, labor dispute, labor or material
11 shortage, sabotage, acts of public enemy,
12 explosions, orders, regulations or restrictions
13 imposed by governmental, military, or lawfully
14 established civilian authorities, which, in any of
15 the foregoing cases, by exercise of commercially
16 reasonable efforts the zero emission facility
17 could not reasonably have been expected to avoid,
18 and which, by the exercise of commercially
19 reasonable efforts, it has been unable to
20 overcome. In such event, the zero emission
21 facility shall be excused from performance for the
22 duration of the event, including, but not limited
23 to, delivery of zero emission credits, and no
24 payment shall be due to the zero emission facility
25 during the duration of the event.

26 (ii) A zero emission facility shall be

1 permitted to terminate the contract if legislation
2 is enacted into law by the General Assembly that
3 imposes or authorizes a new tax, special
4 assessment, or fee on the generation of
5 electricity, the ownership or leasehold of a
6 generating unit, or the privilege or occupation of
7 such generation, ownership, or leasehold of
8 generation units by a zero emission facility.
9 However, the provisions of this item (ii) do not
10 apply to any generally applicable tax, special
11 assessment or fee, or requirements imposed by
12 federal law.

13 (iii) A zero emission facility shall be
14 permitted to terminate the contract in the event
15 that the resource requires capital expenditures in
16 excess of \$40,000,000 that were neither known nor
17 reasonably foreseeable at the time it executed the
18 contract and that a prudent owner or operator of
19 such resource would not undertake.

20 (iv) A zero emission facility shall be
21 permitted to terminate the contract in the event
22 the Nuclear Regulatory Commission terminates the
23 resource's license.

24 (F) If the zero emission facility elects to
25 terminate a contract under subparagraph (E) of this
26 paragraph (1), then the Commission shall reopen the

1 docket in which the Commission approved the zero
2 emission standard procurement plan under subparagraph
3 (C) of this paragraph (1) and, after notice and
4 hearing, enter an order acknowledging the contract
5 termination election if such termination is consistent
6 with the provisions of this subsection (d-5).

7 (2) For purposes of this subsection (d-5), the amount
8 paid per kilowatthour means the total amount paid for
9 electric service expressed on a per kilowatthour basis.
10 For purposes of this subsection (d-5), the total amount
11 paid for electric service includes, without limitation,
12 amounts paid for supply, transmission, distribution,
13 surcharges, and add-on taxes.

14 Notwithstanding the requirements of this subsection
15 (d-5), the contracts executed under this subsection (d-5)
16 shall provide that the total of zero emission credits
17 procured under a procurement plan shall be subject to the
18 limitations of this paragraph (2). For each delivery year,
19 the contractual volume receiving payments in such year
20 shall be reduced for all retail customers based on the
21 amount necessary to limit the net increase that delivery
22 year to the costs of those credits included in the amounts
23 paid by eligible retail customers in connection with
24 electric service to no more than 1.65% of the amount paid
25 per kilowatthour by eligible retail customers during the
26 year ending May 31, 2009. The result of this computation

1 shall apply to and reduce the procurement for all retail
2 customers, and all those customers shall pay the same
3 single, uniform cents per kilowatthour charge under
4 subsection (k) of Section 16-108 of the Public Utilities
5 Act. To arrive at a maximum dollar amount of zero emission
6 credits to be paid for the particular delivery year, the
7 resulting per kilowatthour amount shall be applied to the
8 actual amount of kilowatthours of electricity delivered by
9 the electric utility in the delivery year immediately
10 prior to the procurement, to all retail customers in its
11 service territory. Unpaid contractual volume for any
12 delivery year shall be paid in any subsequent delivery
13 year in which such payments can be made without exceeding
14 the amount specified in this paragraph (2). The
15 calculations required by this paragraph (2) shall be made
16 only once for each procurement plan year. Once the
17 determination as to the amount of zero emission credits to
18 be paid is made based on the calculations set forth in this
19 paragraph (2), no subsequent rate impact determinations
20 shall be made and no adjustments to those contract amounts
21 shall be allowed. All costs incurred under those contracts
22 and in implementing this subsection (d-5) shall be
23 recovered by the electric utility as provided in this
24 Section.

25 No later than June 30, 2019, the Commission shall
26 review the limitation on the amount of zero emission

1 credits procured under this subsection (d-5) and report to
2 the General Assembly its findings as to whether that
3 limitation unduly constrains the procurement of
4 cost-effective zero emission credits.

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

1 exceed the total amount of payments received by the
2 facility under its contract.

3 For purposes of this Section, the Average ZEC Payment
4 shall be calculated by multiplying the quantity of zero
5 emission credits delivered under the contract times the
6 average contract price. The average contract price shall
7 be determined by subtracting the amount calculated under
8 subparagraph (B) of this paragraph (3) from the amount
9 calculated under subparagraph (A) of this paragraph (3),
10 as follows:

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

14 (B) The average of the market price indices, as
15 defined in subparagraph (B) of paragraph (1) of this
16 subsection (d-5), during the term of the contract,
17 minus the baseline market price index, as defined in
18 subparagraph (B) of paragraph (1) of this subsection
19 (d-5).

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

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

25 (5) The electric utility shall retire all zero
26 emission credits used to comply with the requirements of

1 this subsection (d-5).

2 (6) Electric utilities shall be entitled to recover
3 all of the costs associated with the procurement of zero
4 emission credits through an automatic adjustment clause
5 tariff in accordance with subsection (k) and (m) of
6 Section 16-108 of the Public Utilities Act, and the
7 contracts executed under this subsection (d-5) shall
8 provide that the utilities' payment obligations under such
9 contracts shall be reduced if an adjustment is required
10 under subsection (m) of Section 16-108 of the Public
11 Utilities Act.

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

14 (d-10) Nuclear Plant Assistance; carbon mitigation
15 credits.

16 (1) The General Assembly finds:

17 (A) The health, welfare, and prosperity of all
18 Illinois citizens require that the State of Illinois act
19 to avoid and not increase carbon emissions from electric
20 generation sources while continuing to ensure affordable,
21 stable, and reliable electricity to all citizens.

22 (B) Absent immediate action by the State to preserve
23 existing carbon-free energy resources, those resources may
24 retire, and the electric generation needs of Illinois'
25 retail customers may be met instead by facilities that
26 emit significant amounts of carbon pollution and other

1 harmful air pollutants at a high social and economic cost
2 until Illinois is able to develop other forms of clean
3 energy.

4 (C) The General Assembly finds that nuclear power
5 generation is necessary for the State's transition to 100%
6 clean energy, and ensuring continued operation of nuclear
7 plants advances environmental and public health interests
8 through providing carbon-free electricity while reducing
9 the air pollution profile of the Illinois energy
10 generation fleet.

11 (D) The clean energy attributes of nuclear generation
12 facilities support the State in its efforts to achieve
13 100% clean energy.

14 (E) The State currently invests in various forms of
15 clean energy, including, but not limited to, renewable
16 energy, energy efficiency, and low-emission vehicles,
17 among others.

18 (F) The Environmental Protection Agency commissioned
19 an independent audit which provided a detailed assessment
20 of the financial condition of the Illinois nuclear fleet
21 to evaluate its financial viability and whether the
22 environmental benefits of such resources were at risk. The
23 report identified the risk of losing the environmental
24 benefits of several specific nuclear units. The report
25 also identified that the LaSalle County Generating Station
26 will continue to operate through 2026 and therefore is not

1 eligible to participate in the carbon mitigation credit
2 program.

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

6 (H) The procurement of carbon mitigation credits
7 representing the environmental benefits of carbon-free
8 generation will further the State's efforts at achieving
9 100% clean energy and decarbonizing the electricity sector
10 in a safe, reliable, and affordable manner. Further, the
11 procurement of carbon emission credits will enhance the
12 health and welfare of Illinois residents through decreased
13 reliance on more highly polluting generation.

14 (I) The General Assembly therefore finds it necessary
15 to establish carbon mitigation credits to ensure decreased
16 reliance on more carbon-intensive energy resources, for
17 transitioning to a fully decarbonized electricity sector,
18 and to help ensure health and welfare of the State's
19 residents.

20 (2) As used in this subsection:

21 "Baseline costs" means costs used to establish a customer
22 protection cap that have been evaluated through an independent
23 audit of a carbon-free energy resource conducted by the
24 Environmental Protection Agency that evaluated projected
25 annual costs for operation and maintenance expenses; fully
26 allocated overhead costs, which shall be allocated using the

1 methodology developed by the Institute for Nuclear Power
2 Operations; fuel expenditures; nonfuel capital expenditures;
3 spent fuel expenditures; a return on working capital; the cost
4 of operational and market risks that could be avoided by
5 ceasing operation; and any other costs necessary for continued
6 operations, provided that "necessary" means, for purposes of
7 this definition, that the costs could reasonably be avoided
8 only by ceasing operations of the carbon-free energy resource.

9 "Carbon mitigation credit" means a tradable credit that
10 represents the carbon emission reduction attributes of one
11 megawatt-hour of energy produced from a carbon-free energy
12 resource.

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

16 (3) Procurement.

17 (A) Beginning with the delivery year commencing on
18 June 1, 2022, the Agency shall, for electric utilities
19 serving at least 3,000,000 retail customers in the State,
20 seek to procure contracts for no more than approximately
21 54,500,000 cost-effective carbon mitigation credits from
22 carbon-free energy resources because such credits are
23 necessary to support current levels of carbon-free energy
24 generation and ensure the State meets its carbon dioxide
25 emissions reduction goals. The Agency shall not make a
26 partial award of a contract for carbon mitigation credits

1 covering a fractional amount of a carbon-free energy
2 resource's projected output.

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

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

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

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

22 (iv) financial need and the risk of loss of the
23 environmental benefits of such resource, which shall
24 include the following information:

25 (I) the carbon-free energy resource's cost
26 projections, expressed on a per megawatt-hour

1 basis, over the next 5 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; nonfuel 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 subitem (I), that the costs could
13 reasonably be avoided only by ceasing operations
14 of the carbon-free energy resource; and

15 (II) the carbon-free energy resource's revenue
16 projections, including energy, capacity, ancillary
17 services, any other direct State support, known or
18 anticipated federal attribute credits, known or
19 anticipated tax credits, and any other direct
20 federal support.

21 The information described in this subparagraph (B) may
22 be submitted on a confidential basis and shall be treated
23 and maintained by the Agency, the procurement
24 administrator, and the Commission as confidential and
25 proprietary and exempt from disclosure under subparagraphs
26 (a) and (g) of paragraph (1) of Section 7 of the Freedom of

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

5 (C) The Agency shall solicit bids for the contracts
6 described in this subsection (d-10) from carbon-free
7 energy resources that have satisfied the requirements of
8 subparagraph (B) of this paragraph (3). The contracts
9 procured pursuant to a procurement event shall reflect,
10 and be subject to, the following terms, requirements, and
11 limitations:

12 (i) Contracts are for delivery of carbon
13 mitigation credits, and are not energy or capacity
14 sales contracts requiring physical delivery. Pursuant
15 to item (iii), contract payments shall fully deduct
16 the value of any monetized federal production tax
17 credits, credits issued pursuant to a federal clean
18 energy standard, and other federal credits if
19 applicable.

20 (ii) Contracts for carbon mitigation credits shall
21 commence with the delivery year beginning on June 1,
22 2022 and shall be for a term of 5 delivery years
23 concluding on May 31, 2027.

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

1 (I) one of the following energy price indices,
2 selected by the bidder at the time of the bid for
3 the term of the contract:

4 (aa) the weighted-average hourly day-ahead
5 price for the applicable delivery year at the
6 busbar of all resources procured pursuant to
7 this subsection (d-10), weighted by actual
8 production from the resources; or

9 (bb) the projected energy price for the
10 PJM Interconnection, LLC Northern Illinois Hub
11 for the applicable delivery year determined
12 according to subitem (aa) of item (iii) of
13 subparagraph (B) of paragraph (1) of
14 subsection (d-5).

15 (II) the Base Residual Auction Capacity Price
16 for the ComEd zone as determined by PJM
17 Interconnection, LLC, divided by 24 hours per day,
18 for the applicable delivery year for the first 3
19 delivery years, and then any subsequent delivery
20 years unless the PJM Interconnection, LLC applies
21 the Minimum Offer Price Rule to participating
22 carbon-free energy resources because they supply
23 carbon mitigation credits pursuant to this Section
24 at which time, upon notice by the carbon-free
25 energy resource to the Commission and subject to
26 the Commission's confirmation, the value under

1 this subitem shall be zero, as further described
2 in the carbon mitigation credit procurement plan;
3 and

4 (III) any value of monetized federal tax
5 credits, direct payments, or similar subsidy
6 provided to the carbon-free energy resource from
7 any unit of government that is not already
8 reflected in energy prices.

9 If the price-per-megawatt-hour calculation
10 performed under item (iii) of this subparagraph (C)
11 for a given delivery year results in a net positive
12 value, then the electric utility counterparty to the
13 contract shall multiply such net value by the
14 applicable contract quantity and remit the amount to
15 the supplier.

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

1 soon as practicable.

2 (iv) To ensure that retail customers in Northern
3 Illinois do not pay more for carbon mitigation credits
4 than the value such credits provide, and
5 notwithstanding the provisions of this subsection
6 (d-10), the Agency shall not accept bids for contracts
7 that exceed a customer protection cap equal to the
8 baseline costs of carbon-free energy resources.

9 The baseline costs for the applicable year shall
10 be the following:

11 (I) For the delivery year beginning June 1,
12 2022, the baseline costs shall be an amount equal
13 to \$30.30 per megawatt-hour.

14 (II) For the delivery year beginning June 1,
15 2023, the baseline costs shall be an amount equal
16 to \$32.50 per megawatt-hour.

17 (III) For the delivery year beginning June 1,
18 2024, the baseline costs shall be an amount equal
19 to \$33.43 per megawatt-hour.

20 (IV) For the delivery year beginning June 1,
21 2025, the baseline costs shall be an amount equal
22 to \$33.50 per megawatt-hour.

23 (V) For the delivery year beginning June 1,
24 2026, the baseline costs shall be an amount equal
25 to \$34.50 per megawatt-hour.

26 An Environmental Protection Agency consultant

1 forecast, included in a report issued April 14, 2021,
2 projects that a carbon-free energy resource has the
3 opportunity to earn on average approximately \$30.28
4 per megawatt-hour, for the sale of energy and capacity
5 during the time period between 2022 and 2027.
6 Therefore, the sale of carbon mitigation credits
7 provides the opportunity to receive an additional
8 amount per megawatt-hour in addition to the projected
9 prices for energy and capacity.

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

23 (D) No later than 7 days after the effective date of
24 this amendatory Act of the 102nd General Assembly, the
25 Agency shall publish its proposed carbon mitigation credit
26 procurement plan. The Plan shall provide that winning bids

1 shall be selected by taking into consideration which
2 resources best match public interest criteria that
3 include, but are not limited to, minimizing carbon dioxide
4 emissions that result from electricity consumed in
5 Illinois and minimizing sulfur dioxide, nitrogen oxide,
6 and particulate matter emissions that adversely affect the
7 citizens of this State. The selection of winning bids
8 shall also take into account the incremental environmental
9 benefits resulting from the procurement or procurements,
10 such as any existing environmental benefits that are
11 preserved by a procurement held under this subsection
12 (d-10) and would cease to exist if the procurement were
13 not held, including the preservation of carbon-free energy
14 resources. For those bidders having the same public
15 interest criteria score, the relative ranking of such
16 bidders shall be determined by price. The Plan shall
17 describe in detail how each public interest factor shall
18 be considered and weighted in the bid selection process to
19 ensure that the public interest criteria are applied to
20 the procurement. The Plan shall, to the extent practical
21 and permissible by federal law, ensure that successful
22 bidders make commercially reasonable efforts to apply for
23 federal tax credits, direct payments, or similar subsidy
24 programs that support carbon-free generation and for which
25 the successful bidder is eligible. Upon publishing of the
26 carbon mitigation credit procurement plan, copies of the

1 plan shall be posted and made publicly available on the
2 Agency's website. All interested parties shall have 7 days
3 following the date of posting to provide comment to the
4 Agency on the plan. All comments shall be posted to the
5 Agency's website. Following the end of the comment period,
6 but no more than 19 days later than the effective date of
7 this amendatory Act of the 102nd General Assembly, the
8 Agency shall revise the plan as necessary based on the
9 comments received and file its carbon mitigation credit
10 procurement plan with the Commission.

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

24 (i) identify how the selected carbon-free energy
25 resources satisfy the public interest criteria
26 described in this paragraph (3) of minimizing carbon

1 dioxide emissions that result from electricity
2 consumed in Illinois and minimizing sulfur dioxide,
3 nitrogen oxide, and particulate matter emissions that
4 adversely affect the citizens of this State;

5 (ii) specifically address how the selection of
6 carbon-free energy resources takes into account the
7 incremental environmental benefits resulting from the
8 procurement, including any existing environmental
9 benefits that are preserved by the procurements held
10 under this amendatory Act of the 102nd General
11 Assembly and would have ceased to exist if the
12 procurements had not been held, such as the
13 preservation of carbon-free energy resources;

14 (iii) quantify the environmental benefit of
15 preserving the carbon-free energy resources procured
16 pursuant to this subsection (d-10), including the
17 following:

18 (I) an assessment value of avoided greenhouse
19 gas emissions measured as the product of the
20 carbon-free energy resources' output over the
21 contract term, using generally accepted
22 methodologies for the valuation of avoided
23 emissions; and

24 (II) an assessment of costs of replacement
25 with other carbon-free energy resources and
26 renewable energy resources, including wind and

1 photovoltaic generation, based upon an assessment
2 of the prices paid for renewable energy credits
3 through programs and procurements conducted
4 pursuant to subsection (c) of Section 1-75 of this
5 Act, and the additional storage necessary to
6 produce the same or similar capability of matching
7 customer usage patterns.

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

24 (F-1) Costs incurred by the electric utility pursuant
25 to a contract authorized by this subsection (d-10) shall
26 be deemed prudently incurred and reasonable in amount, and

1 the electric utility shall be entitled to full cost
2 recovery pursuant to a tariff or tariffs filed with the
3 Commission.

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

7 (H) If a carbon-free energy resource is sold to
8 another owner, the rights, obligations, and commitments
9 under this subsection (d-10) shall continue to the
10 subsequent owner.

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

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

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

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

23 (h) The Agency shall assess fees to each bidder to recover
24 the costs incurred in connection with a competitive
25 procurement process.

26 (i) A renewable energy credit, carbon emission credit,

1 zero emission credit, or carbon mitigation credit can only be
2 used once to comply with a single portfolio or other standard
3 as set forth in subsection (c), subsection (d), or subsection
4 (d-5) of this Section, respectively. A renewable energy
5 credit, carbon emission credit, zero emission credit, or
6 carbon mitigation credit cannot be used to satisfy the
7 requirements of more than one standard. If more than one type
8 of credit is issued for the same megawatt hour of energy, only
9 one credit can be used to satisfy the requirements of a single
10 standard. After such use, the credit must be retired together
11 with any other credits issued for the same megawatt hour of
12 energy.

13 (Source: P.A. 102-662, eff. 9-15-21; 103-380, eff. 1-1-24;
14 103-580, eff. 12-8-23.)

15 Section 10. The Public Utilities Act is amended by
16 changing Sections 16-108 and 16-111.5 as follows:

17 (220 ILCS 5/16-108)

18 Sec. 16-108. Recovery of costs associated with the
19 provision of delivery and other services.

20 (a) An electric utility shall file a delivery services
21 tariff with the Commission at least 210 days prior to the date
22 that it is required to begin offering such services pursuant
23 to this Act. An electric utility shall provide the components
24 of delivery services that are subject to the jurisdiction of

1 the Federal Energy Regulatory Commission at the same prices,
2 terms and conditions set forth in its applicable tariff as
3 approved or allowed into effect by that Commission. The
4 Commission shall otherwise have the authority pursuant to
5 Article IX to review, approve, and modify the prices, terms
6 and conditions of those components of delivery services not
7 subject to the jurisdiction of the Federal Energy Regulatory
8 Commission, including the authority to determine the extent to
9 which such delivery services should be offered on an unbundled
10 basis. In making any such determination the Commission shall
11 consider, at a minimum, the effect of additional unbundling on
12 (i) the objective of just and reasonable rates, (ii) electric
13 utility employees, and (iii) the development of competitive
14 markets for electric energy services in Illinois.

15 (b) The Commission shall enter an order approving, or
16 approving as modified, the delivery services tariff no later
17 than 30 days prior to the date on which the electric utility
18 must commence offering such services. The Commission may
19 subsequently modify such tariff pursuant to this Act.

20 (c) The electric utility's tariffs shall define the
21 classes of its customers for purposes of delivery services
22 charges. Delivery services shall be priced and made available
23 to all retail customers electing delivery services in each
24 such class on a nondiscriminatory basis regardless of whether
25 the retail customer chooses the electric utility, an affiliate
26 of the electric utility, or another entity as its supplier of

1 electric power and energy. Charges for delivery services shall
2 be cost based, and shall allow the electric utility to recover
3 the costs of providing delivery services through its charges
4 to its delivery service customers that use the facilities and
5 services associated with such costs. Such costs shall include
6 the costs of owning, operating and maintaining transmission
7 and distribution facilities. The Commission shall also be
8 authorized to consider whether, and if so to what extent, the
9 following costs are appropriately included in the electric
10 utility's delivery services rates: (i) the costs of that
11 portion of generation facilities used for the production and
12 absorption of reactive power in order that retail customers
13 located in the electric utility's service area can receive
14 electric power and energy from suppliers other than the
15 electric utility, and (ii) the costs associated with the use
16 and redispatch of generation facilities to mitigate
17 constraints on the transmission or distribution system in
18 order that retail customers located in the electric utility's
19 service area can receive electric power and energy from
20 suppliers other than the electric utility. Nothing in this
21 subsection shall be construed as directing the Commission to
22 allocate any of the costs described in (i) or (ii) that are
23 found to be appropriately included in the electric utility's
24 delivery services rates to any particular customer group or
25 geographic area in setting delivery services rates.

26 (d) The Commission shall establish charges, terms and

1 conditions for delivery services that are just and reasonable
2 and shall take into account customer impacts when establishing
3 such charges. In establishing charges, terms and conditions
4 for delivery services, the Commission shall take into account
5 voltage level differences. A retail customer shall have the
6 option to request to purchase electric service at any delivery
7 service voltage reasonably and technically feasible from the
8 electric facilities serving that customer's premises provided
9 that there are no significant adverse impacts upon system
10 reliability or system efficiency. A retail customer shall also
11 have the option to request to purchase electric service at any
12 point of delivery that is reasonably and technically feasible
13 provided that there are no significant adverse impacts on
14 system reliability or efficiency. Such requests shall not be
15 unreasonably denied.

16 (e) Electric utilities shall recover the costs of
17 installing, operating or maintaining facilities for the
18 particular benefit of one or more delivery services customers,
19 including without limitation any costs incurred in complying
20 with a customer's request to be served at a different voltage
21 level, directly from the retail customer or customers for
22 whose benefit the costs were incurred, to the extent such
23 costs are not recovered through the charges referred to in
24 subsections (c) and (d) of this Section.

25 (f) An electric utility shall be entitled but not required
26 to implement transition charges in conjunction with the

1 offering of delivery services pursuant to Section 16-104. If
2 an electric utility implements transition charges, it shall
3 implement such charges for all delivery services customers and
4 for all customers described in subsection (h), but shall not
5 implement transition charges for power and energy that a
6 retail customer takes from cogeneration or self-generation
7 facilities located on that retail customer's premises, if such
8 facilities meet the following criteria:

9 (i) the cogeneration or self-generation facilities
10 serve a single retail customer and are located on that
11 retail customer's premises (for purposes of this
12 subparagraph and subparagraph (ii), an industrial or
13 manufacturing retail customer and a third party contractor
14 that is served by such industrial or manufacturing
15 customer through such retail customer's own electrical
16 distribution facilities under the circumstances described
17 in subsection (vi) of the definition of "alternative
18 retail electric supplier" set forth in Section 16-102,
19 shall be considered a single retail customer);

20 (ii) the cogeneration or self-generation facilities
21 either (A) are sized pursuant to generally accepted
22 engineering standards for the retail customer's electrical
23 load at that premises (taking into account standby or
24 other reliability considerations related to that retail
25 customer's operations at that site) or (B) if the facility
26 is a cogeneration facility located on the retail

1 customer's premises, the retail customer is the thermal
2 host for that facility and the facility has been designed
3 to meet that retail customer's thermal energy requirements
4 resulting in electrical output beyond that retail
5 customer's electrical demand at that premises, comply with
6 the operating and efficiency standards applicable to
7 "qualifying facilities" specified in title 18 Code of
8 Federal Regulations Section 292.205 as in effect on the
9 effective date of this amendatory Act of 1999;

10 (iii) the retail customer on whose premises the
11 facilities are located either has an exclusive right to
12 receive, and corresponding obligation to pay for, all of
13 the electrical capacity of the facility, or in the case of
14 a cogeneration facility that has been designed to meet the
15 retail customer's thermal energy requirements at that
16 premises, an identified amount of the electrical capacity
17 of the facility, over a minimum 5-year period; and

18 (iv) if the cogeneration facility is sized for the
19 retail customer's thermal load at that premises but
20 exceeds the electrical load, any sales of excess power or
21 energy are made only at wholesale, are subject to the
22 jurisdiction of the Federal Energy Regulatory Commission,
23 and are not for the purpose of circumventing the
24 provisions of this subsection (f).

25 If a generation facility located at a retail customer's
26 premises does not meet the above criteria, an electric utility

1 implementing transition charges shall implement a transition
2 charge until December 31, 2006 for any power and energy taken
3 by such retail customer from such facility as if such power and
4 energy had been delivered by the electric utility. Provided,
5 however, that an industrial retail customer that is taking
6 power from a generation facility that does not meet the above
7 criteria but that is located on such customer's premises will
8 not be subject to a transition charge for the power and energy
9 taken by such retail customer from such generation facility if
10 the facility does not serve any other retail customer and
11 either was installed on behalf of the customer and for its own
12 use prior to January 1, 1997, or is both predominantly fueled
13 by byproducts of such customer's manufacturing process at such
14 premises and sells or offers an average of 300 megawatts or
15 more of electricity produced from such generation facility
16 into the wholesale market. Such charges shall be calculated as
17 provided in Section 16-102, and shall be collected on each
18 kilowatt-hour delivered under a delivery services tariff to a
19 retail customer from the date the customer first takes
20 delivery services until December 31, 2006 except as provided
21 in subsection (h) of this Section. Provided, however, that an
22 electric utility, other than an electric utility providing
23 service to at least 1,000,000 customers in this State on
24 January 1, 1999, shall be entitled to petition for entry of an
25 order by the Commission authorizing the electric utility to
26 implement transition charges for an additional period ending

1 no later than December 31, 2008. The electric utility shall
2 file its petition with supporting evidence no earlier than 16
3 months, and no later than 12 months, prior to December 31,
4 2006. The Commission shall hold a hearing on the electric
5 utility's petition and shall enter its order no later than 8
6 months after the petition is filed. The Commission shall
7 determine whether and to what extent the electric utility
8 shall be authorized to implement transition charges for an
9 additional period. The Commission may authorize the electric
10 utility to implement transition charges for some or all of the
11 additional period, and shall determine the mitigation factors
12 to be used in implementing such transition charges; provided,
13 that the Commission shall not authorize mitigation factors
14 less than 110% of those in effect during the 12 months ended
15 December 31, 2006. In making its determination, the Commission
16 shall consider the following factors: the necessity to
17 implement transition charges for an additional period in order
18 to maintain the financial integrity of the electric utility;
19 the prudence of the electric utility's actions in reducing its
20 costs since the effective date of this amendatory Act of 1997;
21 the ability of the electric utility to provide safe, adequate
22 and reliable service to retail customers in its service area;
23 and the impact on competition of allowing the electric utility
24 to implement transition charges for the additional period.

25 (g) The electric utility shall file tariffs that establish
26 the transition charges to be paid by each class of customers to

1 the electric utility in conjunction with the provision of
2 delivery services. The electric utility's tariffs shall define
3 the classes of its customers for purposes of calculating
4 transition charges. The electric utility's tariffs shall
5 provide for the calculation of transition charges on a
6 customer-specific basis for any retail customer whose average
7 monthly maximum electrical demand on the electric utility's
8 system during the 6 months with the customer's highest monthly
9 maximum electrical demands equals or exceeds 3.0 megawatts for
10 electric utilities having more than 1,000,000 customers, and
11 for other electric utilities for any customer that has an
12 average monthly maximum electrical demand on the electric
13 utility's system of one megawatt or more, and (A) for which
14 there exists data on the customer's usage during the 3 years
15 preceding the date that the customer became eligible to take
16 delivery services, or (B) for which there does not exist data
17 on the customer's usage during the 3 years preceding the date
18 that the customer became eligible to take delivery services,
19 if in the electric utility's reasonable judgment there exists
20 comparable usage information or a sufficient basis to develop
21 such information, and further provided that the electric
22 utility can require customers for which an individual
23 calculation is made to sign contracts that set forth the
24 transition charges to be paid by the customer to the electric
25 utility pursuant to the tariff.

26 (h) An electric utility shall also be entitled to file

1 tariffs that allow it to collect transition charges from
2 retail customers in the electric utility's service area that
3 do not take delivery services but that take electric power or
4 energy from an alternative retail electric supplier or from an
5 electric utility other than the electric utility in whose
6 service area the customer is located. Such charges shall be
7 calculated, in accordance with the definition of transition
8 charges in Section 16-102, for the period of time that the
9 customer would be obligated to pay transition charges if it
10 were taking delivery services, except that no deduction for
11 delivery services revenues shall be made in such calculation,
12 and usage data from the customer's class shall be used where
13 historical usage data is not available for the individual
14 customer. The customer shall be obligated to pay such charges
15 on a lump sum basis on or before the date on which the customer
16 commences to take service from the alternative retail electric
17 supplier or other electric utility, provided, that the
18 electric utility in whose service area the customer is located
19 shall offer the customer the option of signing a contract
20 pursuant to which the customer pays such charges ratably over
21 the period in which the charges would otherwise have applied.

22 (i) An electric utility shall be entitled to add to the
23 bills of delivery services customers charges pursuant to
24 Sections 9-221, 9-222 (except as provided in Section 9-222.1),
25 and Section 16-114 of this Act, Section 5-5 of the Electricity
26 Infrastructure Maintenance Fee Law, Section 6-5 of the

1 Renewable Energy, Energy Efficiency, and Coal Resources
2 Development Law of 1997, and Section 13 of the Energy
3 Assistance Act.

4 (i-5) An electric utility required to impose the Coal to
5 Solar and Energy Storage Initiative Charge provided for in
6 subsection (c-5) of Section 1-75 of the Illinois Power Agency
7 Act shall add such charge to the bills of its delivery services
8 customers pursuant to the terms of a tariff conforming to the
9 requirements of subsection (c-5) of Section 1-75 of the
10 Illinois Power Agency Act and this subsection (i-5) and filed
11 with and approved by the Commission. The electric utility
12 shall file its proposed tariff with the Commission on or
13 before July 1, 2022 to be effective, after review and approval
14 or modification by the Commission, beginning January 1, 2023.
15 On or before December 1, 2022, the Commission shall review the
16 electric utility's proposed tariff, including by conducting a
17 docketed proceeding if deemed necessary by the Commission, and
18 shall approve the proposed tariff or direct the electric
19 utility to make modifications the Commission finds necessary
20 for the tariff to conform to the requirements of subsection
21 (c-5) of Section 1-75 of the Illinois Power Agency Act and this
22 subsection (i-5). The electric utility's tariff shall provide
23 for imposition of the Coal to Solar and Energy Storage
24 Initiative Charge on a per-kilowatthour basis to all
25 kilowatthours delivered by the electric utility to its
26 delivery services customers. The tariff shall provide for the

1 calculation of the Coal to Solar and Energy Storage Initiative
2 Charge to be in effect for the year beginning January 1, 2023
3 and each year beginning January 1 thereafter, sufficient to
4 collect the electric utility's estimated payment obligations
5 for the delivery year beginning the following June 1 under
6 contracts for purchase of renewable energy credits entered
7 into pursuant to subsection (c-5) of Section 1-75 of the
8 Illinois Power Agency Act and the obligations of the
9 Department of Commerce and Economic Opportunity, or any
10 successor department or agency, which for purposes of this
11 subsection (i-5) shall be referred to as the Department, to
12 make grant payments during such delivery year from the Coal to
13 Solar and Energy Storage Initiative Fund pursuant to grant
14 contracts entered into pursuant to subsection (c-5) of Section
15 1-75 of the Illinois Power Agency Act, and using the electric
16 utility's kilowatthour deliveries to its delivery services
17 customers during the delivery year ended May 31 of the
18 preceding calendar year. On or before November 1 of each year
19 beginning November 1, 2022, the Department shall notify the
20 electric utilities of the amount of the Department's estimated
21 obligations for grant payments during the delivery year
22 beginning the following June 1 pursuant to grant contracts
23 entered into pursuant to subsection (c-5) of Section 1-75 of
24 the Illinois Power Agency Act; and each electric utility shall
25 incorporate in the calculation of its Coal to Solar and Energy
26 Storage Initiative Charge the fractional portion of the

1 Department's estimated obligations equal to the electric
2 utility's kilowatthour deliveries to its delivery services
3 customers in the delivery year ended the preceding May 31
4 divided by the aggregate deliveries of both electric utilities
5 to delivery services customers in such delivery year. The
6 electric utility shall remit on a monthly basis to the State
7 Treasurer, for deposit in the Coal to Solar and Energy Storage
8 Initiative Fund provided for in subsection (c-5) of Section
9 1-75 of the Illinois Power Agency Act, the electric utility's
10 collections of the Coal to Solar and Energy Storage Initiative
11 Charge estimated to be needed by the Department for grant
12 payments pursuant to grant contracts entered into pursuant to
13 subsection (c-5) of Section 1-75 of the Illinois Power Agency
14 Act. The initial charge under the electric utility's tariff
15 shall be effective for kilowatthours delivered beginning
16 January 1, 2023, and thereafter shall be revised to be
17 effective January 1, 2024 and each January 1 thereafter, based
18 on the payment obligations for the delivery year beginning the
19 following June 1. The tariff shall provide for the electric
20 utility to make an annual filing with the Commission on or
21 before November 15 of each year, beginning in 2023, setting
22 forth the Coal to Solar and Energy Storage Initiative Charge
23 to be in effect for the year beginning the following January 1.
24 The electric utility's tariff shall also provide that the
25 electric utility shall make a filing with the Commission on or
26 before August 1 of each year beginning in 2024 setting forth a

1 reconciliation, for the delivery year ended the preceding May
2 31, of the electric utility's collections of the Coal to Solar
3 and Energy Storage Initiative Charge against actual payments
4 for renewable energy credits pursuant to contracts entered
5 into, and the actual grant payments by the Department pursuant
6 to grant contracts entered into, pursuant to subsection (c-5)
7 of Section 1-75 of the Illinois Power Agency Act. The tariff
8 shall provide that any excess or shortfall of collections to
9 payments shall be deducted from or added to, on a
10 per-kilowatthour basis, the Coal to Solar and Energy Storage
11 Initiative Charge, over the 6-month period beginning October 1
12 of that calendar year.

13 (i-7) The electric utility shall be entitled to recover
14 through tariffed charges all of the costs associated with
15 payment under contracts for purchase of high voltage direct
16 current renewable energy credits entered into pursuant to
17 subsection (c-7) of Section 1-75 of the Illinois Power Agency
18 Act. An electric utility required to impose the dispatchable
19 and reliable renewable energy charge provided for in
20 subsection (c-7) of Section 1-75 of the Illinois Power Agency
21 Act shall add such charge to the bills of its delivery service
22 customers pursuant to the terms of a tariff conforming to the
23 requirements of subsection (c-7) of Section 1-75 of the
24 Illinois Power Agency Act and this subsection (i-7) and filed
25 with and approved by the Commission. The electric utility
26 shall file its proposed tariff with the Commission on or

1 before February 1, 2025, to be effective, after review and
2 approval or modification by the Commission, beginning January
3 1, 2026. On or before January 1, 2026, the Commission shall
4 review the electric utility's proposed tariff, including by
5 conducting a docketed proceeding if deemed necessary by the
6 Commission, and shall approve the proposed tariff or direct
7 the electric utility to make modifications the Commission
8 finds necessary for the tariff to conform to the requirements
9 of subsection (c-7) of Section 1-75 of the Illinois Power
10 Agency Act and this subsection. The electric utility's tariff
11 shall provide for imposition of the dispatchable and reliable
12 renewable energy charge on a per kilowatt-hour basis to all
13 kilowatthours delivered by the electric utility to its
14 delivery service customers. The tariff shall provide for the
15 calculation of the dispatchable and reliable renewable energy
16 charge to be in effect for the year beginning January 1, 2026,
17 and each year beginning on January 1 thereafter, sufficient to
18 collect the electric utility's estimated payment obligations
19 for the delivery year beginning the following June 1 under
20 contracts for purchase of high voltage direct current
21 renewable energy credits entered into pursuant to subsection
22 (c-7) of Section 1-75 of the Illinois Power Agency Act. The
23 tariff shall provide that any excess or shortfall of
24 collections to payments shall be deducted from or added to, on
25 a per kilowatt-hour basis, the dispatchable and reliable
26 renewable energy charge, over the 6 month period beginning

1 October 1 of that calendar year.

2 (j) If a retail customer that obtains electric power and
3 energy from cogeneration or self-generation facilities
4 installed for its own use on or before January 1, 1997,
5 subsequently takes service from an alternative retail electric
6 supplier or an electric utility other than the electric
7 utility in whose service area the customer is located for any
8 portion of the customer's electric power and energy
9 requirements formerly obtained from those facilities
10 (including that amount purchased from the utility in lieu of
11 such generation and not as standby power purchases, under a
12 cogeneration displacement tariff in effect as of the effective
13 date of this amendatory Act of 1997), the transition charges
14 otherwise applicable pursuant to subsections (f), (g), or (h)
15 of this Section shall not be applicable in any year to that
16 portion of the customer's electric power and energy
17 requirements formerly obtained from those facilities,
18 provided, that for purposes of this subsection (j), such
19 portion shall not exceed the average number of kilowatt-hours
20 per year obtained from the cogeneration or self-generation
21 facilities during the 3 years prior to the date on which the
22 customer became eligible for delivery services, except as
23 provided in subsection (f) of Section 16-110.

24 (k) The electric utility shall be entitled to recover
25 through tariffed charges all of the costs associated with the
26 purchase of zero emission credits from zero emission

1 facilities to meet the requirements of subsection (d-5) of
2 Section 1-75 of the Illinois Power Agency Act and all of the
3 costs associated with the purchase of carbon mitigation
4 credits from carbon-free energy resources to meet the
5 requirements of subsection (d-10) of Section 1-75 of the
6 Illinois Power Agency Act. Such costs shall include the costs
7 of procuring the zero emission credits and carbon mitigation
8 credits from carbon-free energy resources, as well as the
9 reasonable costs that the utility incurs as part of the
10 procurement processes and to implement and comply with plans
11 and processes approved by the Commission under subsections
12 (d-5) and (d-10). The costs shall be allocated across all
13 retail customers through a single, uniform cents per
14 kilowatt-hour charge applicable to all retail customers, which
15 shall appear as a separate line item on each customer's bill.
16 Beginning June 1, 2017, the electric utility shall be entitled
17 to recover through tariffed charges all of the costs
18 associated with the purchase of renewable energy resources to
19 meet the renewable energy resource standards of subsection (c)
20 of Section 1-75 of the Illinois Power Agency Act, under
21 procurement plans as approved in accordance with that Section
22 and Section 16-111.5 of this Act. Such costs shall include the
23 costs of procuring the renewable energy resources, as well as
24 the reasonable costs that the utility incurs as part of the
25 procurement processes and to implement and comply with plans
26 and processes approved by the Commission under such Sections.

1 The costs associated with the purchase of renewable energy
2 resources shall be allocated across all retail customers in
3 proportion to the amount of renewable energy resources the
4 utility procures for such customers through a single, uniform
5 cents per kilowatt-hour charge applicable to such retail
6 customers, which shall appear as a separate line item on each
7 such customer's bill. The credits, costs, and penalties
8 associated with the self-direct renewable portfolio standard
9 compliance program described in subparagraph (R) of paragraph
10 (1) of subsection (c) of Section 1-75 of the Illinois Power
11 Agency Act shall be allocated to approved eligible self-direct
12 customers by the utility in a cents per kilowatt-hour credit,
13 cost, or penalty, which shall appear as a separate line item on
14 each such customer's bill.

15 Notwithstanding whether the Commission has approved the
16 initial long-term renewable resources procurement plan as of
17 June 1, 2017, an electric utility shall place new tariffed
18 charges into effect beginning with the June 2017 monthly
19 billing period, to the extent practicable, to begin recovering
20 the costs of procuring renewable energy resources, as those
21 charges are calculated under the limitations described in
22 subparagraph (E) of paragraph (1) of subsection (c) of Section
23 1-75 of the Illinois Power Agency Act. Notwithstanding the
24 date on which the utility places such new tariffed charges
25 into effect, the utility shall be permitted to collect the
26 charges under such tariff as if the tariff had been in effect

1 beginning with the first day of the June 2017 monthly billing
2 period. For the delivery years commencing June 1, 2017, June
3 1, 2018, June 1, 2019, and each delivery year thereafter, the
4 electric utility shall deposit into a separate interest
5 bearing account of a financial institution the monies
6 collected under the tariffed charges. Money collected from
7 customers for the procurement of renewable energy resources in
8 a given delivery year may be spent by the utility for the
9 procurement of renewable resources over any of the following 5
10 delivery years, after which unspent money shall be credited
11 back to retail customers. The electric utility shall spend all
12 money collected in earlier delivery years that has not yet
13 been returned to customers, first, before spending money
14 collected in later delivery years. Any interest earned shall
15 be credited back to retail customers under the reconciliation
16 proceeding provided for in this subsection (k), provided that
17 the electric utility shall first be reimbursed from the
18 interest for the administrative costs that it incurs to
19 administer and manage the account. Any taxes due on the funds
20 in the account, or interest earned on it, will be paid from the
21 account or, if insufficient monies are available in the
22 account, from the monies collected under the tariffed charges
23 to recover the costs of procuring renewable energy resources.
24 Monies deposited in the account shall be subject to the
25 review, reconciliation, and true-up process described in this
26 subsection (k) that is applicable to the funds collected and

1 costs incurred for the procurement of renewable energy
2 resources.

3 The electric utility shall be entitled to recover all of
4 the costs identified in this subsection (k) through automatic
5 adjustment clause tariffs applicable to all of the utility's
6 retail customers that allow the electric utility to adjust its
7 tariffed charges consistent with this subsection (k). The
8 determination as to whether any excess funds were collected
9 during a given delivery year for the purchase of renewable
10 energy resources, and the crediting of any excess funds back
11 to retail customers, shall not be made until after the close of
12 the delivery year, which will ensure that the maximum amount
13 of funds is available to implement the approved long-term
14 renewable resources procurement plan during a given delivery
15 year. The amount of excess funds eligible to be credited back
16 to retail customers shall be reduced by an amount equal to the
17 payment obligations required by any contracts entered into by
18 an electric utility under contracts described in subsection
19 (b) of Section 1-56 and subsection (c) of Section 1-75 of the
20 Illinois Power Agency Act, even if such payments have not yet
21 been made and regardless of the delivery year in which those
22 payment obligations were incurred. Notwithstanding anything to
23 the contrary, including in tariffs authorized by this
24 subsection (k) in effect before the effective date of this
25 amendatory Act of the 102nd General Assembly, all unspent
26 funds as of May 31, 2021, excluding any funds credited to

1 customers during any utility billing cycle that commences
2 prior to the effective date of this amendatory Act of the 102nd
3 General Assembly, shall remain in the utility account and
4 shall on a first in, first out basis be used toward utility
5 payment obligations under contracts described in subsection
6 (b) of Section 1-56 and subsection (c) of Section 1-75 of the
7 Illinois Power Agency Act. The electric utility's collections
8 under such automatic adjustment clause tariffs to recover the
9 costs of renewable energy resources, zero emission credits
10 from zero emission facilities, and carbon mitigation credits
11 from carbon-free energy resources shall be subject to separate
12 annual review, reconciliation, and true-up against actual
13 costs by the Commission under a procedure that shall be
14 specified in the electric utility's automatic adjustment
15 clause tariffs and that shall be approved by the Commission in
16 connection with its approval of such tariffs. The procedure
17 shall provide that any difference between the electric
18 utility's collections for zero emission credits and carbon
19 mitigation credits under the automatic adjustment charges for
20 an annual period and the electric utility's actual costs of
21 zero emission credits from zero emission facilities and carbon
22 mitigation credits from carbon-free energy resources for that
23 same annual period shall be refunded to or collected from, as
24 applicable, the electric utility's retail customers in
25 subsequent periods.

26 Nothing in this subsection (k) is intended to affect,

1 limit, or change the right of the electric utility to recover
2 the costs associated with the procurement of renewable energy
3 resources for periods commencing before, on, or after June 1,
4 2017, as otherwise provided in the Illinois Power Agency Act.

5 The funding available under this subsection (k), if any,
6 for the programs described under subsection (b) of Section
7 1-56 of the Illinois Power Agency Act shall not reduce the
8 amount of funding for the programs described in subparagraph
9 (O) of paragraph (1) of subsection (c) of Section 1-75 of the
10 Illinois Power Agency Act. If funding is available under this
11 subsection (k) for programs described under subsection (b) of
12 Section 1-56 of the Illinois Power Agency Act, then the
13 long-term renewable resources plan shall provide for the
14 Agency to procure contracts in an amount that does not exceed
15 the funding, and the contracts approved by the Commission
16 shall be executed by the applicable utility or utilities.

17 (l) A utility that has terminated any contract executed
18 under subsection (d-5) or (d-10) of Section 1-75 of the
19 Illinois Power Agency Act shall be entitled to recover any
20 remaining balance associated with the purchase of zero
21 emission credits prior to such termination, and such utility
22 shall also apply a credit to its retail customer bills in the
23 event of any over-collection.

24 (m)(1) An electric utility that recovers its costs of
25 procuring zero emission credits from zero emission facilities
26 through a cents-per-kilowatthour charge under subsection (k)

1 of this Section shall be subject to the requirements of this
2 subsection (m). Notwithstanding anything to the contrary, such
3 electric utility shall, beginning on April 30, 2018, and each
4 April 30 thereafter until April 30, 2026, calculate whether
5 any reduction must be applied to such cents-per-kilowatthour
6 charge that is paid by retail customers of the electric
7 utility that have opted out of subsections (a) through (j) of
8 Section 8-103B of this Act under subsection (1) of Section
9 8-103B. Such charge shall be reduced for such customers for
10 the next delivery year commencing on June 1 based on the amount
11 necessary, if any, to limit the annual estimated average net
12 increase for the prior calendar year due to the future energy
13 investment costs to no more than 1.3% of 5.98 cents per
14 kilowatt-hour, which is the average amount paid per
15 kilowatthour for electric service during the year ending
16 December 31, 2015 by Illinois industrial retail customers, as
17 reported to the Edison Electric Institute.

18 The calculations required by this subsection (m) shall be
19 made only once for each year, and no subsequent rate impact
20 determinations shall be made.

21 (2) For purposes of this Section, "future energy
22 investment costs" shall be calculated by subtracting the
23 cents-per-kilowatthour charge identified in subparagraph (A)
24 of this paragraph (2) from the sum of the
25 cents-per-kilowatthour charges identified in subparagraph (B)
26 of this paragraph (2):

1 (A) The cents-per-kilowatthour charge identified in
2 the electric utility's tariff placed into effect under
3 Section 8-103 of the Public Utilities Act that, on
4 December 1, 2016, was applicable to those retail customers
5 that have opted out of subsections (a) through (j) of
6 Section 8-103B of this Act under subsection (l) of Section
7 8-103B.

8 (B) The sum of the following cents-per-kilowatthour
9 charges applicable to those retail customers that have
10 opted out of subsections (a) through (j) of Section 8-103B
11 of this Act under subsection (l) of Section 8-103B,
12 provided that if one or more of the following charges has
13 been in effect and applied to such customers for more than
14 one calendar year, then each charge shall be equal to the
15 average of the charges applied over a period that
16 commences with the calendar year ending December 31, 2017
17 and ends with the most recently completed calendar year
18 prior to the calculation required by this subsection (m):

19 (i) the cents-per-kilowatthour charge to recover
20 the costs incurred by the utility under subsection
21 (d-5) of Section 1-75 of the Illinois Power Agency
22 Act, adjusted for any reductions required under this
23 subsection (m); and

24 (ii) the cents-per-kilowatthour charge to recover
25 the costs incurred by the utility under Section
26 16-107.6 of the Public Utilities Act.

1 If no charge was applied for a given calendar year
2 under item (i) or (ii) of this subparagraph (B), then the
3 value of the charge for that year shall be zero.

4 (3) If a reduction is required by the calculation
5 performed under this subsection (m), then the amount of the
6 reduction shall be multiplied by the number of years reflected
7 in the averages calculated under subparagraph (B) of paragraph
8 (2) of this subsection (m). Such reduction shall be applied to
9 the cents-per-kilowatthour charge that is applicable to those
10 retail customers that have opted out of subsections (a)
11 through (j) of Section 8-103B of this Act under subsection (l)
12 of Section 8-103B beginning with the next delivery year
13 commencing after the date of the calculation required by this
14 subsection (m).

15 (4) The electric utility shall file a notice with the
16 Commission on May 1 of 2018 and each May 1 thereafter until May
17 1, 2026 containing the reduction, if any, which must be
18 applied for the delivery year which begins in the year of the
19 filing. The notice shall contain the calculations made
20 pursuant to this Section. By October 1 of each year beginning
21 in 2018, each electric utility shall notify the Commission if
22 it appears, based on an estimate of the calculation required
23 in this subsection (m), that a reduction will be required in
24 the next year.

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

1 (220 ILCS 5/16-111.5)

2 Sec. 16-111.5. Provisions relating to procurement.

3 (a) An electric utility that on December 31, 2005 served
4 at least 100,000 customers in Illinois shall procure power and
5 energy for its eligible retail customers in accordance with
6 the applicable provisions set forth in Section 1-75 of the
7 Illinois Power Agency Act and this Section. Beginning with the
8 delivery year commencing on June 1, 2017, such electric
9 utility shall also procure zero emission credits from zero
10 emission facilities in accordance with the applicable
11 provisions set forth in Section 1-75 of the Illinois Power
12 Agency Act, and, for years beginning on or after June 1, 2017,
13 the utility shall procure renewable energy resources in
14 accordance with the applicable provisions set forth in Section
15 1-75 of the Illinois Power Agency Act and this Section.
16 Beginning with the delivery year commencing on June 1, 2022,
17 an electric utility serving over 3,000,000 customers shall
18 also procure carbon mitigation credits from carbon-free energy
19 resources in accordance with the applicable provisions set
20 forth in Section 1-75 of the Illinois Power Agency Act and this
21 Section. A small multi-jurisdictional electric utility that on
22 December 31, 2005 served less than 100,000 customers in
23 Illinois may elect to procure power and energy for all or a
24 portion of its eligible Illinois retail customers in
25 accordance with the applicable provisions set forth in this
26 Section and Section 1-75 of the Illinois Power Agency Act.

1 This Section shall not apply to a small multi-jurisdictional
2 utility until such time as a small multi-jurisdictional
3 utility requests the Illinois Power Agency to prepare a
4 procurement plan for its eligible retail customers. "Eligible
5 retail customers" for the purposes of this Section means those
6 retail customers that purchase power and energy from the
7 electric utility under fixed-price bundled service tariffs,
8 other than those retail customers whose service is declared or
9 deemed competitive under Section 16-113 and those other
10 customer groups specified in this Section, including
11 self-generating customers, customers electing hourly pricing,
12 or those customers who are otherwise ineligible for
13 fixed-price bundled tariff service. For those customers that
14 are excluded from the procurement plan's electric supply
15 service requirements, and the utility shall procure any supply
16 requirements, including capacity, ancillary services, and
17 hourly priced energy, in the applicable markets as needed to
18 serve those customers, provided that the utility may include
19 in its procurement plan load requirements for the load that is
20 associated with those retail customers whose service has been
21 declared or deemed competitive pursuant to Section 16-113 of
22 this Act to the extent that those customers are purchasing
23 power and energy during one of the transition periods
24 identified in subsection (b) of Section 16-113 of this Act.

25 (b) A procurement plan shall be prepared for each electric
26 utility consistent with the applicable requirements of the

1 Illinois Power Agency Act and this Section. For purposes of
2 this Section, Illinois electric utilities that are affiliated
3 by virtue of a common parent company are considered to be a
4 single electric utility. Small multi-jurisdictional utilities
5 may request a procurement plan for a portion of or all of its
6 Illinois load. Each procurement plan shall analyze the
7 projected balance of supply and demand for those retail
8 customers to be included in the plan's electric supply service
9 requirements over a 5-year period, with the first planning
10 year beginning on June 1 of the year following the year in
11 which the plan is filed. The plan shall specifically identify
12 the wholesale products to be procured following plan approval,
13 and shall follow all the requirements set forth in the Public
14 Utilities Act and all applicable State and federal laws,
15 statutes, rules, or regulations, as well as Commission orders.
16 Nothing in this Section precludes consideration of contracts
17 longer than 5 years and related forecast data. Unless
18 specified otherwise in this Section, in the procurement plan
19 or in the implementing tariff, any procurement occurring in
20 accordance with this plan shall be competitively bid through a
21 request for proposals process. Approval and implementation of
22 the procurement plan shall be subject to review and approval
23 by the Commission according to the provisions set forth in
24 this Section. A procurement plan shall include each of the
25 following components:

- 26 (1) Hourly load analysis. This analysis shall include:

1 (i) multi-year historical analysis of hourly
2 loads;

3 (ii) switching trends and competitive retail
4 market analysis;

5 (iii) known or projected changes to future loads;
6 and

7 (iv) growth forecasts by customer class.

8 (2) Analysis of the impact of any demand side and
9 renewable energy initiatives. This analysis shall include:

10 (i) the impact of demand response programs and
11 energy efficiency programs, both current and
12 projected; for small multi-jurisdictional utilities,
13 the impact of demand response and energy efficiency
14 programs approved pursuant to Section 8-408 of this
15 Act, both current and projected; and

16 (ii) supply side needs that are projected to be
17 offset by purchases of renewable energy resources, if
18 any.

19 (3) A plan for meeting the expected load requirements
20 that will not be met through preexisting contracts. This
21 plan shall include:

22 (i) definitions of the different Illinois retail
23 customer classes for which supply is being purchased;

24 (ii) the proposed mix of demand-response products
25 for which contracts will be executed during the next
26 year. For small multi-jurisdictional electric

1 utilities that on December 31, 2005 served fewer than
2 100,000 customers in Illinois, these shall be defined
3 as demand-response products offered in an energy
4 efficiency plan approved pursuant to Section 8-408 of
5 this Act. The cost-effective demand-response measures
6 shall be procured whenever the cost is lower than
7 procuring comparable capacity products, provided that
8 such products shall:

9 (A) be procured by a demand-response provider
10 from those retail customers included in the plan's
11 electric supply service requirements;

12 (B) at least satisfy the demand-response
13 requirements of the regional transmission
14 organization market in which the utility's service
15 territory is located, including, but not limited
16 to, any applicable capacity or dispatch
17 requirements;

18 (C) provide for customers' participation in
19 the stream of benefits produced by the
20 demand-response products;

21 (D) provide for reimbursement by the
22 demand-response provider of the utility for any
23 costs incurred as a result of the failure of the
24 supplier of such products to perform its
25 obligations thereunder; and

26 (E) meet the same credit requirements as apply

1 to suppliers of capacity, in the applicable
2 regional transmission organization market;

3 (iii) monthly forecasted system supply
4 requirements, including expected minimum, maximum, and
5 average values for the planning period;

6 (iv) the proposed mix and selection of standard
7 wholesale products for which contracts will be
8 executed during the next year, separately or in
9 combination, to meet that portion of its load
10 requirements not met through pre-existing contracts,
11 including but not limited to monthly 5 x 16 peak period
12 block energy, monthly off-peak wrap energy, monthly 7
13 x 24 energy, annual 5 x 16 energy, other standardized
14 energy or capacity products designed to provide
15 eligible retail customer benefits from commercially
16 deployed advanced technologies including but not
17 limited to high voltage direct current converter
18 stations, as such term is defined in Section 1-10 of
19 the Illinois Power Agency Act, whether or not such
20 product is currently available in wholesale markets,
21 annual off-peak wrap energy, annual 7 x 24 energy,
22 monthly capacity, annual capacity, peak load capacity
23 obligations, capacity purchase plan, and ancillary
24 services;

25 (v) proposed term structures for each wholesale
26 product type included in the proposed procurement plan

1 portfolio of products; and

2 (vi) an assessment of the price risk, load
3 uncertainty, and other factors that are associated
4 with the proposed procurement plan; this assessment,
5 to the extent possible, shall include an analysis of
6 the following factors: contract terms, time frames for
7 securing products or services, fuel costs, weather
8 patterns, transmission costs, market conditions, and
9 the governmental regulatory environment; the proposed
10 procurement plan shall also identify alternatives for
11 those portfolio measures that are identified as having
12 significant price risk and mitigation in the form of
13 additional retail customer and ratepayer price,
14 reliability, and environmental benefits from
15 standardized energy products delivered from
16 commercially deployed advanced technologies,
17 including, but not limited to, high voltage direct
18 current converter stations, as such term is defined in
19 Section 1-10 of the Illinois Power Agency Act, whether
20 or not such product is currently available in
21 wholesale markets.

22 (4) Proposed procedures for balancing loads. The
23 procurement plan shall include, for load requirements
24 included in the procurement plan, the process for (i)
25 hourly balancing of supply and demand and (ii) the
26 criteria for portfolio re-balancing in the event of

1 significant shifts in load.

2 (5) Long-Term Renewable Resources Procurement Plan.
3 The Agency shall prepare a long-term renewable resources
4 procurement plan for the procurement of renewable energy
5 credits under Sections 1-56 and 1-75 of the Illinois Power
6 Agency Act for delivery beginning in the 2017 delivery
7 year.

8 (i) The initial long-term renewable resources
9 procurement plan and all subsequent revisions shall be
10 subject to review and approval by the Commission. For
11 the purposes of this Section, "delivery year" has the
12 same meaning as in Section 1-10 of the Illinois Power
13 Agency Act. For purposes of this Section, "Agency"
14 shall mean the Illinois Power Agency.

15 (ii) The long-term renewable resources planning
16 process shall be conducted as follows:

17 (A) Electric utilities shall provide a range
18 of load forecasts to the Illinois Power Agency
19 within 45 days of the Agency's request for
20 forecasts, which request shall specify the length
21 and conditions for the forecasts including, but
22 not limited to, the quantity of distributed
23 generation expected to be interconnected for each
24 year.

25 (B) The Agency shall publish for comment the
26 initial long-term renewable resources procurement

1 plan no later than 120 days after the effective
2 date of this amendatory Act of the 99th General
3 Assembly and shall review, and may revise, the
4 plan at least every 2 years thereafter. To the
5 extent practicable, the Agency shall review and
6 propose any revisions to the long-term renewable
7 energy resources procurement plan in conjunction
8 with the Agency's other planning and approval
9 processes conducted under this Section. The
10 initial long-term renewable resources procurement
11 plan shall:

12 (aa) Identify the procurement programs and
13 competitive procurement events consistent with
14 the applicable requirements of the Illinois
15 Power Agency Act and shall be designed to
16 achieve the goals set forth in subsection (c)
17 of Section 1-75 of that Act.

18 (bb) Include a schedule for procurements
19 for renewable energy credits from
20 utility-scale wind projects, utility-scale
21 solar projects, and brownfield site
22 photovoltaic projects consistent with
23 subparagraph (G) of paragraph (1) of
24 subsection (c) of Section 1-75 of the Illinois
25 Power Agency Act.

26 (cc) Identify the process whereby the

1 Agency will submit to the Commission for
2 review and approval the proposed contracts to
3 implement the programs required by such plan.

4 Copies of the initial long-term renewable
5 resources procurement plan and all subsequent
6 revisions shall be posted and made publicly
7 available on the Agency's and Commission's
8 websites, and copies shall also be provided to
9 each affected electric utility. An affected
10 utility and other interested parties shall have 45
11 days following the date of posting to provide
12 comment to the Agency on the initial long-term
13 renewable resources procurement plan and all
14 subsequent revisions. All comments submitted to
15 the Agency shall be specific, supported by data or
16 other detailed analyses, and, if objecting to all
17 or a portion of the procurement plan, accompanied
18 by specific alternative wording or proposals. All
19 comments shall be posted on the Agency's and
20 Commission's websites. During this 45-day comment
21 period, the Agency shall hold at least one public
22 hearing within each utility's service area that is
23 subject to the requirements of this paragraph (5)
24 for the purpose of receiving public comment.
25 Within 21 days following the end of the 45-day
26 review period, the Agency may revise the long-term

1 renewable resources procurement plan based on the
2 comments received and shall file the plan with the
3 Commission for review and approval.

4 (C) Within 14 days after the filing of the
5 initial long-term renewable resources procurement
6 plan or any subsequent revisions, any person
7 objecting to the plan may file an objection with
8 the Commission. Within 21 days after the filing of
9 the plan, the Commission shall determine whether a
10 hearing is necessary. The Commission shall enter
11 its order confirming or modifying the initial
12 long-term renewable resources procurement plan or
13 any subsequent revisions within 120 days after the
14 filing of the plan by the Illinois Power Agency.

15 (D) The Commission shall approve the initial
16 long-term renewable resources procurement plan and
17 any subsequent revisions, including expressly the
18 forecast used in the plan and taking into account
19 that funding will be limited to the amount of
20 revenues actually collected by the utilities, if
21 the Commission determines that the plan will
22 reasonably and prudently accomplish the
23 requirements of Section 1-56 and subsection (c) of
24 Section 1-75 of the Illinois Power Agency Act. The
25 Commission shall also approve the process for the
26 submission, review, and approval of the proposed

1 contracts to procure renewable energy credits or
2 implement the programs authorized by the
3 Commission pursuant to a long-term renewable
4 resources procurement plan approved under this
5 Section.

6 In approving any long-term renewable resources
7 procurement plan after the effective date of this
8 amendatory Act of the 102nd General Assembly, the
9 Commission shall approve or modify the Agency's
10 proposal for minimum equity standards pursuant to
11 subsection (c-10) of Section 1-75 of the Illinois
12 Power Agency Act. The Commission shall consider
13 any analysis performed by the Agency in developing
14 its proposal, including past performance,
15 availability of equity eligible contractors, and
16 availability of equity eligible persons at the
17 time the long-term renewable resources procurement
18 plan is approved.

19 (iii) The Agency or third parties contracted by
20 the Agency shall implement all programs authorized by
21 the Commission in an approved long-term renewable
22 resources procurement plan without further review and
23 approval by the Commission. Third parties shall not
24 begin implementing any programs or receive any payment
25 under this Section until the Commission has approved
26 the contract or contracts under the process authorized

1 by the Commission in item (D) of subparagraph (ii) of
2 paragraph (5) of this subsection (b) and the third
3 party and the Agency or utility, as applicable, have
4 executed the contract. For those renewable energy
5 credits subject to procurement through a competitive
6 bid process under the plan or under the initial
7 forward procurements for wind and solar resources
8 described in subparagraph (G) of paragraph (1) of
9 subsection (c) of Section 1-75 of the Illinois Power
10 Agency Act, the Agency shall follow the procurement
11 process specified in the provisions relating to
12 electricity procurement in subsections (e) through (i)
13 of this Section.

14 (iv) An electric utility shall recover its costs
15 associated with the procurement of renewable energy
16 credits under this Section and pursuant to subsection
17 (c-5) and (c-7) of Section 1-75 of the Illinois Power
18 Agency Act through an automatic adjustment clause
19 tariff under subsection (k) or a tariff pursuant to
20 subsection (i-5) or (i-7), as applicable, of Section
21 16-108 of this Act. A utility shall not be required to
22 advance any payment or pay any amounts under this
23 Section that exceed the actual amount of revenues
24 collected by the utility under paragraph (6) of
25 subsection (c) of Section 1-75 of the Illinois Power
26 Agency Act, subsection (c-5) of Section 1-75 of the

1 Illinois Power Agency Act, and subsection (k) or
2 subsection (i-5), as applicable, of Section 16-108 of
3 this Act, and contracts executed under this Section
4 shall expressly incorporate this limitation.

5 (v) For the public interest, safety, and welfare,
6 the Agency and the Commission may adopt rules to carry
7 out the provisions of this Section on an emergency
8 basis immediately following the effective date of this
9 amendatory Act of the 99th General Assembly.

10 (vi) On or before July 1 of each year, the
11 Commission shall hold an informal hearing for the
12 purpose of receiving comments on the prior year's
13 procurement process and any recommendations for
14 change.

15 (b-5) An electric utility that as of January 1, 2019
16 served more than 300,000 retail customers in this State shall
17 purchase renewable energy credits from new renewable energy
18 facilities constructed at or adjacent to the sites of
19 coal-fueled electric generating facilities in this State in
20 accordance with subsection (c-5) of Section 1-75 of the
21 Illinois Power Agency Act. Except as expressly provided in
22 this Section, the plans and procedures for such procurements
23 shall not be included in the procurement plans provided for in
24 this Section, but rather shall be conducted and implemented
25 solely in accordance with subsection (c-5) of Section 1-75 of
26 the Illinois Power Agency Act.

1 (b-7) An electric utility that, as of January 1, 2019,
2 served more than 300,000 retail customers in this State shall
3 purchase high voltage direct current renewable energy credits
4 in accordance with subsection (c-7) of Section 1-75 of the
5 Illinois Power Agency Act. Except as expressly provided in
6 this Section, the plans and procedures for such procurements
7 shall not be included in the procurement plans provided for in
8 this Section but shall be conducted and implemented solely in
9 accordance with subsection (c-7) of Section 1-75 of the
10 Illinois Power Agency Act.

11 (c) The provisions of this subsection (c) shall not apply
12 to procurements conducted pursuant to subsection (c-5) or
13 (c-7) of Section 1-75 of the Illinois Power Agency Act.
14 However, the Agency may retain a procurement administrator to
15 assist the Agency in planning and carrying out the procurement
16 events and implementing the other requirements specified in
17 such subsection (c-5) of Section 1-75 of the Illinois Power
18 Agency Act, with the costs incurred by the Agency for the
19 procurement administrator to be recovered through fees charged
20 to applicants for selection to sell and deliver renewable
21 energy credits to electric utilities pursuant to subsection
22 (c-5) or (c-7) of Section 1-75 of the Illinois Power Agency
23 Act. The procurement process set forth in Section 1-75 of the
24 Illinois Power Agency Act and subsection (e) of this Section
25 shall be administered by a procurement administrator and
26 monitored by a procurement monitor.

1 (1) The procurement administrator shall:

2 (i) design the final procurement process in
3 accordance with Section 1-75 of the Illinois Power
4 Agency Act and subsection (e) of this Section
5 following Commission approval of the procurement plan;

6 (ii) develop benchmarks in accordance with
7 subsection (e)(3) to be used to evaluate bids; these
8 benchmarks shall be submitted to the Commission for
9 review and approval on a confidential basis prior to
10 the procurement event;

11 (iii) serve as the interface between the electric
12 utility and suppliers;

13 (iv) manage the bidder pre-qualification and
14 registration process;

15 (v) obtain the electric utilities' agreement to
16 the final form of all supply contracts and credit
17 collateral agreements;

18 (vi) administer the request for proposals process;

19 (vii) have the discretion to negotiate to
20 determine whether bidders are willing to lower the
21 price of bids that meet the benchmarks approved by the
22 Commission; any post-bid negotiations with bidders
23 shall be limited to price only and shall be completed
24 within 24 hours after opening the sealed bids and
25 shall be conducted in a fair and unbiased manner; in
26 conducting the negotiations, there shall be no

1 disclosure of any information derived from proposals
2 submitted by competing bidders; if information is
3 disclosed to any bidder, it shall be provided to all
4 competing bidders;

5 (viii) maintain confidentiality of supplier and
6 bidding information in a manner consistent with all
7 applicable laws, rules, regulations, and tariffs;

8 (ix) submit a confidential report to the
9 Commission recommending acceptance or rejection of
10 bids;

11 (x) notify the utility of contract counterparties
12 and contract specifics; and

13 (xi) administer related contingency procurement
14 events.

15 (2) The procurement monitor, who shall be retained by
16 the Commission, shall:

17 (i) monitor interactions among the procurement
18 administrator, suppliers, and utility;

19 (ii) monitor and report to the Commission on the
20 progress of the procurement process;

21 (iii) provide an independent confidential report
22 to the Commission regarding the results of the
23 procurement event;

24 (iv) assess compliance with the procurement plans
25 approved by the Commission for each utility that on
26 December 31, 2005 provided electric service to at

1 least 100,000 customers in Illinois and for each small
2 multi-jurisdictional utility that on December 31, 2005
3 served less than 100,000 customers in Illinois;

4 (v) preserve the confidentiality of supplier and
5 bidding information in a manner consistent with all
6 applicable laws, rules, regulations, and tariffs;

7 (vi) provide expert advice to the Commission and
8 consult with the procurement administrator regarding
9 issues related to procurement process design, rules,
10 protocols, and policy-related matters; and

11 (vii) consult with the procurement administrator
12 regarding the development and use of benchmark
13 criteria, standard form contracts, credit policies,
14 and bid documents.

15 (d) Except as provided in subsection (j), the planning
16 process shall be conducted as follows:

17 (1) Beginning in 2008, each Illinois utility procuring
18 power pursuant to this Section shall annually provide a
19 range of load forecasts to the Illinois Power Agency by
20 July 15 of each year, or such other date as may be required
21 by the Commission or Agency. The load forecasts shall
22 cover the 5-year procurement planning period for the next
23 procurement plan and shall include hourly data
24 representing a high-load, low-load, and expected-load
25 scenario for the load of those retail customers included
26 in the plan's electric supply service requirements. The

1 utility shall provide supporting data and assumptions for
2 each of the scenarios.

3 (2) Beginning in 2008, the Illinois Power Agency shall
4 prepare a procurement plan by August 15th of each year, or
5 such other date as may be required by the Commission. The
6 procurement plan shall identify the portfolio of
7 demand-response and power and energy products to be
8 procured. Cost-effective demand-response measures shall be
9 procured as set forth in item (iii) of subsection (b) of
10 this Section. Copies of the procurement plan shall be
11 posted and made publicly available on the Agency's and
12 Commission's websites, and copies shall also be provided
13 to each affected electric utility. An affected utility
14 shall have 30 days following the date of posting to
15 provide comment to the Agency on the procurement plan.
16 Other interested entities also may comment on the
17 procurement plan. All comments submitted to the Agency
18 shall be specific, supported by data or other detailed
19 analyses, and, if objecting to all or a portion of the
20 procurement plan, accompanied by specific alternative
21 wording or proposals. All comments shall be posted on the
22 Agency's and Commission's websites. During this 30-day
23 comment period, the Agency shall hold at least one public
24 hearing within each utility's service area for the purpose
25 of receiving public comment on the procurement plan.
26 Within 14 days following the end of the 30-day review

1 period, the Agency shall revise the procurement plan as
2 necessary based on the comments received and file the
3 procurement plan with the Commission and post the
4 procurement plan on the websites.

5 (3) Within 5 days after the filing of the procurement
6 plan, any person objecting to the procurement plan shall
7 file an objection with the Commission. Within 10 days
8 after the filing, the Commission shall determine whether a
9 hearing is necessary. The Commission shall enter its order
10 confirming or modifying the procurement plan within 90
11 days after the filing of the procurement plan by the
12 Illinois Power Agency.

13 (4) The Commission shall approve the procurement plan,
14 including expressly the forecast used in the procurement
15 plan, if the Commission determines that it will ensure
16 adequate, reliable, affordable, efficient, and
17 environmentally sustainable electric service at the lowest
18 total cost over time, taking into account any benefits of
19 price stability.

20 (4.5) The Commission shall review the Agency's
21 recommendations for the selection of applicants to enter
22 into long-term contracts for the sale and delivery of
23 renewable energy credits from new renewable energy
24 facilities to be constructed at or adjacent to the sites
25 of coal-fueled electric generating facilities in this
26 State in accordance with the provisions of subsection

1 (c-5) of Section 1-75 of the Illinois Power Agency Act,
2 and shall approve the Agency's recommendations if the
3 Commission determines that the applicants recommended by
4 the Agency for selection, the proposed new renewable
5 energy facilities to be constructed, the amounts of
6 renewable energy credits to be delivered pursuant to the
7 contracts, and the other terms of the contracts, are
8 consistent with the requirements of subsection (c-5) of
9 Section 1-75 of the Illinois Power Agency Act.

10 (e) The procurement process shall include each of the
11 following components:

12 (1) Solicitation, pre-qualification, and registration
13 of bidders. The procurement administrator shall
14 disseminate information to potential bidders to promote a
15 procurement event, notify potential bidders that the
16 procurement administrator may enter into a post-bid price
17 negotiation with bidders that meet the applicable
18 benchmarks, provide supply requirements, and otherwise
19 explain the competitive procurement process. In addition
20 to such other publication as the procurement administrator
21 determines is appropriate, this information shall be
22 posted on the Illinois Power Agency's and the Commission's
23 websites. The procurement administrator shall also
24 administer the prequalification process, including
25 evaluation of credit worthiness, compliance with
26 procurement rules, and agreement to the standard form

1 contract developed pursuant to paragraph (2) of this
2 subsection (e). The procurement administrator shall then
3 identify and register bidders to participate in the
4 procurement event.

5 (2) Standard contract forms and credit terms and
6 instruments. The procurement administrator, in
7 consultation with the utilities, the Commission, and other
8 interested parties and subject to Commission oversight,
9 shall develop and provide standard contract forms for the
10 supplier contracts that meet generally accepted industry
11 practices. Standard credit terms and instruments that meet
12 generally accepted industry practices shall be similarly
13 developed. The procurement administrator shall make
14 available to the Commission all written comments it
15 receives on the contract forms, credit terms, or
16 instruments. If the procurement administrator cannot reach
17 agreement with the applicable electric utility as to the
18 contract terms and conditions, the procurement
19 administrator must notify the Commission of any disputed
20 terms and the Commission shall resolve the dispute. The
21 terms of the contracts shall not be subject to negotiation
22 by winning bidders, and the bidders must agree to the
23 terms of the contract in advance so that winning bids are
24 selected solely on the basis of price.

25 (3) Establishment of a market-based price benchmark.
26 As part of the development of the procurement process, the

1 procurement administrator, in consultation with the
2 Commission staff, Agency staff, and the procurement
3 monitor, shall establish benchmarks for evaluating the
4 final prices in the contracts for each of the products
5 that will be procured through the procurement process. The
6 benchmarks shall be based on price data for similar
7 products for the same delivery period and same delivery
8 hub, or other delivery hubs after adjusting for that
9 difference. The price benchmarks may also be adjusted to
10 take into account differences between the information
11 reflected in the underlying data sources and the specific
12 products and procurement process being used to procure
13 power for the Illinois utilities. The benchmarks shall be
14 confidential but shall be provided to, and will be subject
15 to Commission review and approval, prior to a procurement
16 event.

17 (4) Request for proposals competitive procurement
18 process. The procurement administrator shall design and
19 issue a request for proposals to supply electricity in
20 accordance with each utility's procurement plan, as
21 approved by the Commission. The request for proposals
22 shall set forth a procedure for sealed, binding commitment
23 bidding with pay-as-bid settlement, and provision for
24 selection of bids on the basis of price.

25 (5) A plan for implementing contingencies in the event
26 of supplier default or failure of the procurement process

1 to fully meet the expected load requirement due to
2 insufficient supplier participation, Commission rejection
3 of results, or any other cause.

4 (i) Event of supplier default: In the event of
5 supplier default, the utility shall review the
6 contract of the defaulting supplier to determine if
7 the amount of supply is 200 megawatts or greater, and
8 if there are more than 60 days remaining of the
9 contract term. If both of these conditions are met,
10 and the default results in termination of the
11 contract, the utility shall immediately notify the
12 Illinois Power Agency that a request for proposals
13 must be issued to procure replacement power, and the
14 procurement administrator shall run an additional
15 procurement event. If the contracted supply of the
16 defaulting supplier is less than 200 megawatts or
17 there are less than 60 days remaining of the contract
18 term, the utility shall procure power and energy from
19 the applicable regional transmission organization
20 market, including ancillary services, capacity, and
21 day-ahead or real time energy, or both, for the
22 duration of the contract term to replace the
23 contracted supply; provided, however, that if a needed
24 product is not available through the regional
25 transmission organization market it shall be purchased
26 from the wholesale market.

1 (ii) Failure of the procurement process to fully
2 meet the expected load requirement: If the procurement
3 process fails to fully meet the expected load
4 requirement due to insufficient supplier participation
5 or due to a Commission rejection of the procurement
6 results, the procurement administrator, the
7 procurement monitor, and the Commission staff shall
8 meet within 10 days to analyze potential causes of low
9 supplier interest or causes for the Commission
10 decision. If changes are identified that would likely
11 result in increased supplier participation, or that
12 would address concerns causing the Commission to
13 reject the results of the prior procurement event, the
14 procurement administrator may implement those changes
15 and rerun the request for proposals process according
16 to a schedule determined by those parties and
17 consistent with Section 1-75 of the Illinois Power
18 Agency Act and this subsection. In any event, a new
19 request for proposals process shall be implemented by
20 the procurement administrator within 90 days after the
21 determination that the procurement process has failed
22 to fully meet the expected load requirement.

23 (iii) In all cases where there is insufficient
24 supply provided under contracts awarded through the
25 procurement process to fully meet the electric
26 utility's load requirement, the utility shall meet the

1 load requirement by procuring power and energy from
2 the applicable regional transmission organization
3 market, including ancillary services, capacity, and
4 day-ahead or real time energy, or both; provided,
5 however, that if a needed product is not available
6 through the regional transmission organization market
7 it shall be purchased from the wholesale market.

8 (6) The procurement processes described in this
9 subsection and in subsection (c-5) and (c-7) of Section
10 1-75 of the Illinois Power Agency Act are exempt from the
11 requirements of the Illinois Procurement Code, pursuant to
12 Section 20-10 of that Code.

13 (f) Within 2 business days after opening the sealed bids,
14 the procurement administrator shall submit a confidential
15 report to the Commission. The report shall contain the results
16 of the bidding for each of the products along with the
17 procurement administrator's recommendation for the acceptance
18 and rejection of bids based on the price benchmark criteria
19 and other factors observed in the process. The procurement
20 monitor also shall submit a confidential report to the
21 Commission within 2 business days after opening the sealed
22 bids. The report shall contain the procurement monitor's
23 assessment of bidder behavior in the process as well as an
24 assessment of the procurement administrator's compliance with
25 the procurement process and rules. The Commission shall review
26 the confidential reports submitted by the procurement

1 administrator and procurement monitor, and shall accept or
2 reject the recommendations of the procurement administrator
3 within 2 business days after receipt of the reports.

4 (g) Within 3 business days after the Commission decision
5 approving the results of a procurement event, the utility
6 shall enter into binding contractual arrangements with the
7 winning suppliers using the standard form contracts; except
8 that the utility shall not be required either directly or
9 indirectly to execute the contracts if a tariff that is
10 consistent with subsection (l) of this Section has not been
11 approved and placed into effect for that utility.

12 (h) For the procurement of standard wholesale products,
13 the names of the successful bidders and the load weighted
14 average of the winning bid prices for each contract type and
15 for each contract term shall be made available to the public at
16 the time of Commission approval of a procurement event. For
17 procurements conducted to meet the requirements of subsection
18 (b) of Section 1-56 or subsection (c) of Section 1-75 of the
19 Illinois Power Agency Act governed by the provisions of this
20 Section, the address and nameplate capacity of the new
21 renewable energy generating facility proposed by a winning
22 bidder shall also be made available to the public at the time
23 of Commission approval of a procurement event, along with the
24 business address and contact information for any winning
25 bidder. An estimate or approximation of the nameplate capacity
26 of the new renewable energy generating facility may be

1 disclosed if necessary to protect the confidentiality of
2 individual bid prices.

3 The Commission, the procurement monitor, the procurement
4 administrator, the Illinois Power Agency, and all participants
5 in the procurement process shall maintain the confidentiality
6 of all other supplier and bidding information in a manner
7 consistent with all applicable laws, rules, regulations, and
8 tariffs. Confidential information, including the confidential
9 reports submitted by the procurement administrator and
10 procurement monitor pursuant to subsection (f) of this
11 Section, shall not be made publicly available and shall not be
12 discoverable by any party in any proceeding, absent a
13 compelling demonstration of need, nor shall those reports be
14 admissible in any proceeding other than one for law
15 enforcement purposes.

16 (i) Within 2 business days after a Commission decision
17 approving the results of a procurement event or such other
18 date as may be required by the Commission from time to time,
19 the utility shall file for informational purposes with the
20 Commission its actual or estimated retail supply charges, as
21 applicable, by customer supply group reflecting the costs
22 associated with the procurement and computed in accordance
23 with the tariffs filed pursuant to subsection (l) of this
24 Section and approved by the Commission.

25 (j) Within 60 days following August 28, 2007 (the
26 effective date of Public Act 95-481), each electric utility

1 that on December 31, 2005 provided electric service to at
2 least 100,000 customers in Illinois shall prepare and file
3 with the Commission an initial procurement plan, which shall
4 conform in all material respects to the requirements of the
5 procurement plan set forth in subsection (b); provided,
6 however, that the Illinois Power Agency Act shall not apply to
7 the initial procurement plan prepared pursuant to this
8 subsection. The initial procurement plan shall identify the
9 portfolio of power and energy products to be procured and
10 delivered for the period June 2008 through May 2009, and shall
11 identify the proposed procurement administrator, who shall
12 have the same experience and expertise as is required of a
13 procurement administrator hired pursuant to Section 1-75 of
14 the Illinois Power Agency Act. Copies of the procurement plan
15 shall be posted and made publicly available on the
16 Commission's website. The initial procurement plan may include
17 contracts for renewable resources that extend beyond May 2009.

18 (i) Within 14 days following filing of the initial
19 procurement plan, any person may file a detailed objection
20 with the Commission contesting the procurement plan
21 submitted by the electric utility. All objections to the
22 electric utility's plan shall be specific, supported by
23 data or other detailed analyses. The electric utility may
24 file a response to any objections to its procurement plan
25 within 7 days after the date objections are due to be
26 filed. Within 7 days after the date the utility's response

1 is due, the Commission shall determine whether a hearing
2 is necessary. If it determines that a hearing is
3 necessary, it shall require the hearing to be completed
4 and issue an order on the procurement plan within 60 days
5 after the filing of the procurement plan by the electric
6 utility.

7 (ii) The order shall approve or modify the procurement
8 plan, approve an independent procurement administrator,
9 and approve or modify the electric utility's tariffs that
10 are proposed with the initial procurement plan. The
11 Commission shall approve the procurement plan if the
12 Commission determines that it will ensure adequate,
13 reliable, affordable, efficient, and environmentally
14 sustainable electric service at the lowest total cost over
15 time, taking into account any benefits of price stability.

16 (k) (Blank).

17 (k-5) (Blank).

18 (l) An electric utility shall recover its costs incurred
19 under this Section and subsections ~~subsection~~ (c-5) and (c-7)
20 of Section 1-75 of the Illinois Power Agency Act, including,
21 but not limited to, the costs of procuring power and energy
22 demand-response resources under this Section and its costs for
23 purchasing renewable energy credits pursuant to subsection
24 (c-5) of Section 1-75 of the Illinois Power Agency Act and high
25 voltage direct current renewable energy credits pursuant to
26 subsection (c-7) of Section 1-75 of the Illinois Power Agency

1 Act. The utility shall file with the initial procurement plan
2 its proposed tariffs through which its costs of procuring
3 power that are incurred pursuant to a Commission-approved
4 procurement plan and those other costs identified in this
5 subsection (1), will be recovered. The tariffs shall include a
6 formula rate or charge designed to pass through both the costs
7 incurred by the utility in procuring a supply of electric
8 power and energy for the applicable customer classes with no
9 mark-up or return on the price paid by the utility for that
10 supply, plus any just and reasonable costs that the utility
11 incurs in arranging and providing for the supply of electric
12 power and energy. The formula rate or charge shall also
13 contain provisions that ensure that its application does not
14 result in over or under recovery due to changes in customer
15 usage and demand patterns, and that provide for the
16 correction, on at least an annual basis, of any accounting
17 errors that may occur. A utility shall recover through the
18 tariff all reasonable costs incurred to implement or comply
19 with any procurement plan that is developed and put into
20 effect pursuant to Section 1-75 of the Illinois Power Agency
21 Act and this Section, and for the procurement of renewable
22 energy credits pursuant to subsection (c-5) or (c-7) of
23 Section 1-75 of the Illinois Power Agency Act, including any
24 fees assessed by the Illinois Power Agency, costs associated
25 with load balancing, and contingency plan costs. The electric
26 utility shall also recover its full costs of procuring

1 electric supply for which it contracted before the effective
2 date of this Section in conjunction with the provision of full
3 requirements service under fixed-price bundled service tariffs
4 subsequent to December 31, 2006. All such costs shall be
5 deemed to have been prudently incurred. The pass-through
6 tariffs that are filed and approved pursuant to this Section
7 shall not be subject to review under, or in any way limited by,
8 Section 16-111(i) of this Act. All of the costs incurred by the
9 electric utility associated with the purchase of zero emission
10 credits in accordance with subsection (d-5) of Section 1-75 of
11 the Illinois Power Agency Act, all costs incurred by the
12 electric utility associated with the purchase of carbon
13 mitigation credits in accordance with subsection (d-10) of
14 Section 1-75 of the Illinois Power Agency Act, and, beginning
15 June 1, 2017, all of the costs incurred by the electric utility
16 associated with the purchase of renewable energy resources in
17 accordance with Sections 1-56 and 1-75 of the Illinois Power
18 Agency Act, and all of the costs incurred by the electric
19 utility in purchasing renewable energy credits in accordance
20 with subsection (c-5) of Section 1-75 of the Illinois Power
21 Agency Act, shall be recovered through the electric utility's
22 tariffed charges applicable to all of its retail customers, as
23 specified in subsection (k), ~~or~~ subsection (i-5), or
24 subsection (i-7), as applicable, of Section 16-108 of this
25 Act, and shall not be recovered through the electric utility's
26 tariffed charges for electric power and energy supply to its

1 eligible retail customers.

2 (m) The Commission has the authority to adopt rules to
3 carry out the provisions of this Section. For the public
4 interest, safety, and welfare, the Commission also has
5 authority to adopt rules to carry out the provisions of this
6 Section on an emergency basis immediately following August 28,
7 2007 (the effective date of Public Act 95-481).

8 (n) Notwithstanding any other provision of this Act, any
9 affiliated electric utilities that submit a single procurement
10 plan covering their combined needs may procure for those
11 combined needs in conjunction with that plan, and may enter
12 jointly into power supply contracts, purchases, and other
13 procurement arrangements, and allocate capacity and energy and
14 cost responsibility therefor among themselves in proportion to
15 their requirements.

16 (o) On or before June 1 of each year, the Commission shall
17 hold an informal hearing for the purpose of receiving comments
18 on the prior year's procurement process and any
19 recommendations for change.

20 (p) An electric utility subject to this Section may
21 propose to invest, lease, own, or operate an electric
22 generation facility or high voltage direct current
23 transmission line as part of its procurement plan, provided
24 the utility demonstrates that such facility is the least-cost
25 option to provide electric service to those retail customers
26 included in the plan's electric supply service requirements.

1 If the facility is shown to be the least-cost option and is
2 included in a procurement plan prepared in accordance with
3 Section 1-75 of the Illinois Power Agency Act and this
4 Section, then the electric utility shall make a filing
5 pursuant to Section 8-406 of this Act, and may request of the
6 Commission any statutory relief required thereunder. If the
7 Commission grants all of the necessary approvals for the
8 proposed facility, such supply shall thereafter be considered
9 as a pre-existing contract under subsection (b) of this
10 Section. The Commission shall in any order approving a
11 proposal under this subsection specify how the utility will
12 recover the prudently incurred costs of investing in, leasing,
13 owning, or operating such generation facility through just and
14 reasonable rates charged to those retail customers included in
15 the plan's electric supply service requirements. Cost recovery
16 for facilities included in the utility's procurement plan
17 pursuant to this subsection shall not be subject to review
18 under or in any way limited by the provisions of Section
19 16-111(i) of this Act. Nothing in this Section is intended to
20 prohibit a utility from filing for a fuel adjustment clause as
21 is otherwise permitted under Section 9-220 of this Act.

22 (q) If the Illinois Power Agency filed with the
23 Commission, under Section 16-111.5 of this Act, its proposed
24 procurement plan for the period commencing June 1, 2017, and
25 the Commission has not yet entered its final order approving
26 the plan on or before the effective date of this amendatory Act

1 of the 99th General Assembly, then the Illinois Power Agency
2 shall file a notice of withdrawal with the Commission, after
3 the effective date of this amendatory Act of the 99th General
4 Assembly, to withdraw the proposed procurement of renewable
5 energy resources to be approved under the plan, other than the
6 procurement of renewable energy credits from distributed
7 renewable energy generation devices using funds previously
8 collected from electric utilities' retail customers that take
9 service pursuant to electric utilities' hourly pricing tariff
10 or tariffs and, for an electric utility that serves less than
11 100,000 retail customers in the State, other than the
12 procurement of renewable energy credits from distributed
13 renewable energy generation devices. Upon receipt of the
14 notice, the Commission shall enter an order that approves the
15 withdrawal of the proposed procurement of renewable energy
16 resources from the plan. The initially proposed procurement of
17 renewable energy resources shall not be approved or be the
18 subject of any further hearing, investigation, proceeding, or
19 order of any kind.

20 This amendatory Act of the 99th General Assembly preempts
21 and supersedes any order entered by the Commission that
22 approved the Illinois Power Agency's procurement plan for the
23 period commencing June 1, 2017, to the extent it is
24 inconsistent with the provisions of this amendatory Act of the
25 99th General Assembly. To the extent any previously entered
26 order approved the procurement of renewable energy resources,

1 the portion of that order approving the procurement shall be
2 void, other than the procurement of renewable energy credits
3 from distributed renewable energy generation devices using
4 funds previously collected from electric utilities' retail
5 customers that take service under electric utilities' hourly
6 pricing tariff or tariffs and, for an electric utility that
7 serves less than 100,000 retail customers in the State, other
8 than the procurement of renewable energy credits for
9 distributed renewable energy generation devices.

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