



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

SB1587

Introduced 2/8/2023, by Sen. Bill Cunningham

#### SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-5  
20 ILCS 3855/1-10  
20 ILCS 3855/1-20  
20 ILCS 3855/1-93 new  
20 ILCS 3855/1-94 new  
220 ILCS 5/16-108  
220 ILCS 5/16-111.5

Amends the Illinois Power Agency Act. Makes legislative declarations and findings regarding the deployment of energy storage systems. Makes it a goal of the Illinois Power Agency to include implementing procurement of energy storage credits to cost-effectively deploy contracted energy storage systems. Provides that the Agency is authorized to conduct competitive solicitations to procure contracted energy storage credits sufficient to achieve, at minimum, certain energy storage standards. Provides that the Agency has the power to request, review, and accept proposals, execute contracts, and procure energy storage credits. Provides that the Agency shall develop a storage procurement plan that results in the electric utilities contracting for energy storage credits from contracted energy storage systems in specified amounts. Provides that within 90 days of the effective date of the amendatory Act, the Agency shall develop an energy storage procurement plan. Provides that for all procurements of energy storage credits, the Agency shall direct respondents to offer a strike price. Provides that all procurements under these provisions shall comply with the geographic requirements of the Act and shall follow the procurement processes and procedures described in the Act and the Public Utilities Act. Authorizes the Agency to develop and implement a firm energy resource procurement plan. Provides that no later than December 31, 2026 and every 2 years thereafter, the Agency shall conduct an analysis to determine whether the contracted quantity of energy storage in energy storage capacity and energy storage duration is sufficient to support the State's renewable energy standards and carbon emission standards. Defines terms. Makes corresponding changes in the Public Utilities Act. Effective immediately.

LRB103 27840 AMQ 54218 b

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 5. The Illinois Power Agency Act is amended by  
5 changing Sections 1-5, 1-10, and 1-20 and by adding Section  
6 1-93 and 1-94 as follows:

7 (20 ILCS 3855/1-5)

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

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

15 (1.5) To provide the highest quality of life for the  
16 residents of Illinois and to provide for a clean and  
17 healthy environment, it is the policy of this State to  
18 rapidly transition to 100% clean energy by 2050.

19 (2) (Blank).

20 (3) (Blank).

21 (4) It is necessary to improve the process of  
22 procuring electricity to serve Illinois residents, to  
23 promote investment in energy efficiency and

1 demand-response measures, and to maintain and support  
2 development of clean coal technologies, generation  
3 resources that operate at all hours of the day and under  
4 all weather conditions, zero emission facilities, and  
5 renewable resources.

6 (5) Procuring a diverse electricity supply portfolio  
7 will ensure the lowest total cost over time for adequate,  
8 reliable, efficient, and environmentally sustainable  
9 electric service.

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

21 (7) Developing community solar projects in Illinois  
22 will help to expand access to renewable energy resources  
23 to more Illinois residents.

24 (8) Developing brownfield solar projects in Illinois  
25 will help return blighted or contaminated land to  
26 productive use while enhancing public health and the

1 well-being of Illinois residents, including those in  
2 environmental justice communities.

3 (9) Energy efficiency, demand-response measures, zero  
4 emission energy, and renewable energy are resources  
5 currently underused in Illinois. These resources should be  
6 used, when cost effective, to reduce costs to consumers,  
7 improve reliability, and improve environmental quality and  
8 public health.

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

14 (10.5) The State should encourage the development of  
15 interregional high voltage direct current (HVDC)  
16 transmission lines that benefit Illinois. All ratepayers  
17 in the State served by the regional transmission  
18 organization where the HVDC converter station is  
19 interconnected benefit from the long-term price stability  
20 and market access provided by interregional HVDC  
21 transmission facilities. The benefits to Illinois include:  
22 reduction in wholesale power prices; access to lower-cost  
23 markets; enabling the integration of additional renewable  
24 generating units within the State through near  
25 instantaneous dispatchability and the provision of  
26 ancillary services; creating good-paying union jobs in

1 Illinois; and, enhancing grid reliability and climate  
2 resilience via HVDC facilities that are installed  
3 underground.

4 (10.6) The health, welfare, and safety of the people  
5 of the State are advanced by developing new HVDC  
6 transmission lines predominantly along transportation  
7 rights-of-way, with an HVDC converter station that is  
8 located in the service territory of a public utility as  
9 defined in Section 3-105 of the Public Utilities Act  
10 serving more than 3,000,000 retail customers, and with a  
11 project labor agreement as defined in Section 1-10 of this  
12 Act.

13 (11) The General Assembly enacted Public Act 96-0795  
14 to reform the State's purchasing processes, recognizing  
15 that government procurement is susceptible to abuse if  
16 structural and procedural safeguards are not in place to  
17 ensure independence, insulation, oversight, and  
18 transparency.

19 (12) The principles that underlie the procurement  
20 reform legislation apply also in the context of power  
21 purchasing.

22 (13) To ensure that the benefits of installing  
23 renewable resources are available to all Illinois  
24 residents and located across the State, subject to  
25 appropriation, it is necessary for the Agency to provide  
26 public information and educational resources on how

1 residents can benefit from the expansion of renewable  
2 energy in Illinois and participate in the Illinois Solar  
3 for All Program established in Section 1-56, the  
4 Adjustable Block program established in Section 1-75, the  
5 job training programs established by paragraph (1) of  
6 subsection (a) of Section 16-108.12 of the Public  
7 Utilities Act, and the programs and resources established  
8 by the Energy Transition Act.

9 (14) The deployment of energy storage systems is  
10 necessary to achieve high levels of renewable energy, to  
11 avoid the use of peaking fossil fuel plants, and to  
12 maintain an efficient, reliable, and resilient electric  
13 grid.

14 The General Assembly therefore finds that it is necessary  
15 to create the Illinois Power Agency and that the goals and  
16 objectives of that Agency are to accomplish each of the  
17 following:

18 (A) Develop electricity procurement plans to ensure  
19 adequate, reliable, affordable, efficient, and  
20 environmentally sustainable electric service at the lowest  
21 total cost over time, taking into account any benefits of  
22 price stability, for electric utilities that on December  
23 31, 2005 provided electric service to at least 100,000  
24 customers in Illinois and for small multi-jurisdictional  
25 electric utilities that (i) on December 31, 2005 served  
26 less than 100,000 customers in Illinois and (ii) request a

1 procurement plan for their Illinois jurisdictional load.  
2 The procurement plan shall be updated on an annual basis  
3 and shall include renewable energy resources and,  
4 beginning with the delivery year commencing June 1, 2017,  
5 zero emission credits from zero emission facilities  
6 sufficient to achieve the standards specified in this Act.

7 (B) Conduct the competitive procurement processes  
8 identified in this Act.

9 (C) Develop electric generation and co-generation  
10 facilities that use indigenous coal or renewable  
11 resources, or both, financed with bonds issued by the  
12 Illinois Finance Authority.

13 (D) Supply electricity from the Agency's facilities at  
14 cost to one or more of the following: municipal electric  
15 systems, governmental aggregators, or rural electric  
16 cooperatives in Illinois.

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

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

24 (G) Operate in a structurally insulated, independent,  
25 and transparent fashion so that nothing impedes the  
26 Agency's mission to secure power at the best prices the

1 market will bear, provided that the Agency meets all  
2 applicable legal requirements.

3 (H) Implement renewable energy procurement and  
4 training programs throughout the State to diversify  
5 Illinois electricity supply, improve reliability, avoid  
6 and reduce pollution, reduce peak demand, and enhance  
7 public health and well-being of Illinois residents,  
8 including low-income residents.

9 (I) Implement procurement of energy storage credits to  
10 cost-effectively deploy contracted energy storage systems.

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

12 (20 ILCS 3855/1-10)

13 Sec. 1-10. Definitions.

14 "Agency" means the Illinois Power Agency.

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

23 "Authority" means the Illinois Finance Authority.

24 "Brownfield site photovoltaic project" means photovoltaics  
25 that are either:



1           (1) interconnected to an electric utility as defined  
2           in this Section, a municipal utility as defined in this  
3           Section, a public utility as defined in Section 3-105 of  
4           the Public Utilities Act, or an electric cooperative as  
5           defined in Section 3-119 of the Public Utilities Act and  
6           located at a site that is regulated by any of the following  
7           entities under the following programs:

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

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

16                   (C) the Illinois Environmental Protection Agency  
17                   under the Illinois Site Remediation Program; or

18                   (D) the Illinois Environmental Protection Agency  
19                   under the Illinois Solid Waste Program; or

20           (2) located at the site of a coal mine that has  
21           permanently ceased coal production, permanently halted any  
22           re-mining operations, and is no longer accepting any coal  
23           combustion residues; has both completed all clean-up and  
24           remediation obligations under the federal Surface Mining  
25           and Reclamation Act of 1977 and all applicable Illinois  
26           rules and any other clean-up, remediation, or ongoing

1 monitoring to safeguard the health and well-being of the  
2 people of the State of Illinois, as well as demonstrated  
3 compliance with all applicable federal and State  
4 environmental rules and regulations, including, but not  
5 limited, to 35 Ill. Adm. Code Part 845 and any rules for  
6 historic fill of coal combustion residuals, including any  
7 rules finalized in Subdocket A of Illinois Pollution  
8 Control Board docket R2020-019.

9 "Clean coal facility" means an electric generating  
10 facility that uses primarily coal as a feedstock and that  
11 captures and sequesters carbon dioxide emissions at the  
12 following levels: at least 50% of the total carbon dioxide  
13 emissions that the facility would otherwise emit if, at the  
14 time construction commences, the facility is scheduled to  
15 commence operation before 2016, at least 70% of the total  
16 carbon dioxide emissions that the facility would otherwise  
17 emit if, at the time construction commences, the facility is  
18 scheduled to commence operation during 2016 or 2017, and at  
19 least 90% of the total carbon dioxide emissions that the  
20 facility would otherwise emit if, at the time construction  
21 commences, the facility is scheduled to commence operation  
22 after 2017. The power block of the clean coal facility shall  
23 not exceed allowable emission rates for sulfur dioxide,  
24 nitrogen oxides, carbon monoxide, particulates and mercury for  
25 a natural gas-fired combined-cycle facility the same size as  
26 and in the same location as the clean coal facility at the time

1 the clean coal facility obtains an approved air permit. All  
2 coal used by a clean coal facility shall have high volatile  
3 bituminous rank and greater than 1.7 pounds of sulfur per  
4 million Btu ~~btu~~ content, unless the clean coal facility does  
5 not use gasification technology and was operating as a  
6 conventional coal-fired electric generating facility on June  
7 1, 2009 (the effective date of Public Act 95-1027).

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

24 "Clean coal SNG facility" means a facility that uses a  
25 gasification process to produce substitute natural gas, that  
26 sequesters at least 90% of the total carbon dioxide emissions

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

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

13 "Commission" means the Illinois Commerce Commission.

14 "Community renewable generation project" means an electric  
15 generating facility that:

16 (1) is powered by wind, solar thermal energy,  
17 photovoltaic cells or panels, biodiesel, crops and  
18 untreated and unadulterated organic waste biomass, and  
19 hydropower that does not involve new construction or  
20 significant expansion of hydropower dams;

21 (2) is interconnected at the distribution system level  
22 of an electric utility as defined in this Section, a  
23 municipal utility as defined in this Section that owns or  
24 operates electric distribution facilities, a public  
25 utility as defined in Section 3-105 of the Public  
26 Utilities Act, or an electric cooperative, as defined in

1 Section 3-119 of the Public Utilities Act;

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

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

6 "Contracted energy storage system" means an energy storage  
7 system that is the subject of a long-term energy storage  
8 contract under Section 1-93. "Contracted energy storage  
9 system" does not include an energy storage system put into  
10 service before the effective date of this amendatory Act of  
11 the 103rd General Assembly.

12 "Costs incurred in connection with the development and  
13 construction of a facility" means:

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

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

21 (3) all origination, commitment, utilization,  
22 facility, placement, underwriting, syndication, credit  
23 enhancement, and rating agency fees;

24 (4) engineering, design, procurement, consulting,  
25 legal, accounting, title insurance, survey, appraisal,  
26 escrow, trustee, collateral agency, interest rate hedging,

1 interest rate swap, capitalized interest, contingency, as  
2 required by lenders, and other financing costs, and other  
3 expenses for professional services; and

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

12 "Daily energy volatility index" means a calculation, for a  
13 contracted energy storage system, of the difference between  
14 the "X" highest-priced hours and the "X" lowest-priced hours  
15 of the energy storage duration of the contracted energy  
16 storage system for each day in the day-ahead energy market of  
17 the applicable pricing node of the independent system operator  
18 or regional transmission organization, where "X" equals the  
19 energy storage duration of the contracted energy storage  
20 system.

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

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

26 "Department" means the Department of Commerce and Economic

1 Opportunity.

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

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

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

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

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

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

25 (4) (blank).

26 "Energy efficiency" means measures that reduce the amount

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

9 "Energy storage capacity" means the nameplate capacity of  
10 a contracted energy storage system, measured in megawatts AC.

11 "Energy storage credit" means a fungible credit that  
12 represents the flexibility value of a contracted energy  
13 storage system. An energy storage credit is produced for each  
14 one megawatt of energy storage capacity multiplied by the  
15 energy storage duration each day that the contracted energy  
16 storage system is interconnected with wholesale electricity  
17 markets.

18 "Energy storage credit counterparty" has the same meaning  
19 as "public utility" as defined in Section 3-105 of the Public  
20 Utilities Act.

21 "Energy storage credit value" means a price, measured in  
22 dollars per credit, calculated for each day for a contracted  
23 energy storage system by subtracting the daily energy  
24 volatility index and the reference capacity price from the  
25 energy storage strike price.

26 "Energy storage duration" means the number of hours over



1 which an energy storage system is capable of continuously  
2 discharging energy at its full energy storage capacity.

3 "Energy storage strike price" means a contract price for  
4 energy storage credits from a contracted energy storage  
5 system.

6 "Energy storage system" means commercially available  
7 technology that is capable of absorbing energy and storing it  
8 for use at a later time, including, but not limited to,  
9 electrochemical, thermal, and electromechanical technologies.

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

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

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

23 (2) environmental ~~Environmental~~ justice communities,  
24 as defined by the Illinois Power Agency pursuant to the  
25 Illinois Power Agency Act, where residents have  
26 historically been subject to disproportionate burdens of

1 pollution, including pollution from the energy sector.

2 "Equity eligible persons" or "eligible persons" means  
3 persons who would most benefit from equitable investments by  
4 the State designed to combat discrimination, specifically:

5 (1) persons who graduate from or are current or former  
6 participants in the Clean Jobs Workforce Network Program,  
7 the Clean Energy Contractor Incubator Program, the  
8 Illinois Climate Works Preapprenticeship Program,  
9 Returning Residents Clean Jobs Training Program, or the  
10 Clean Energy Primes Contractor Accelerator Program, and  
11 the solar training pipeline and multi-cultural jobs  
12 program created in paragraphs (a) (1) and (a) (3) of Section  
13 16-208.12 ~~16-108.21~~ of the Public Utilities Act;

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

16 (3) persons who were formerly incarcerated;

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

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

24 "Facility" means an electric generating unit or a  
25 co-generating unit that produces electricity along with  
26 related equipment necessary to connect the facility to an

1 electric transmission or distribution system.

2 "Firm energy resource" means electrical resources,  
3 including long-duration energy storage and multi-day energy  
4 storage, that can individually, or in combination, deliver  
5 electricity with guaranteed high availability at rated  
6 capacity for the expected duration of multi-day extreme or  
7 atypical weather events, including periods of low renewable  
8 energy generation, and facilitate integration of eligible  
9 renewable energy resources into the electrical grid and the  
10 transition to a zero-carbon electrical grid.

11 "General contractor ~~Contractor~~" means the entity or  
12 organization with main responsibility for the building of a  
13 construction project and who is the party signing the prime  
14 construction contract for the project.

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

19 "High voltage direct current converter station" means the  
20 collection of equipment that converts direct current energy  
21 from a high voltage direct current transmission line into  
22 alternating current using Voltage Source Conversion technology  
23 and that is interconnected with transmission or distribution  
24 assets located in Illinois.

25 "High voltage direct current renewable energy credit"  
26 means a renewable energy credit associated with a renewable

1 energy resource where the renewable energy resource has  
2 entered into a contract to transmit the energy associated with  
3 such renewable energy credit over high voltage direct current  
4 transmission facilities.

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

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

1 "Indexed renewable energy credit" means a tradable credit  
2 that represents the environmental attributes of one megawatt  
3 hour of energy produced from a renewable energy resource, the  
4 price of which shall be calculated by subtracting the strike  
5 price offered by a new utility-scale wind project or a new  
6 utility-scale photovoltaic project from the index price in a  
7 given settlement period.

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

11 "Local government" means a unit of local government as  
12 defined in Section 1 of Article VII of the Illinois  
13 Constitution.

14 "Long-duration energy storage" means an energy storage  
15 system capable of dispatching energy at its full rated  
16 capacity for 10 hours or greater.

17 "Long-term energy storage contract" means a contract for  
18 the purchase of energy storage credits generated by an energy  
19 storage system for a period of at least 15 years.

20 "Multi-day energy storage" means an energy storage system  
21 capable of dispatching energy at its full rated capacity for  
22 greater than 24 hours.

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

25 "Municipal utility" means a public utility owned and  
26 operated by any subdivision or municipal corporation of this

1 State.

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

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

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

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

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

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

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

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

25 (5) provisions for minorities and women, as defined  
26 under the Business Enterprise for Minorities, Women, and

1 Persons with Disabilities Act, setting forth goals for  
2 apprenticeship hours to be performed by minorities and  
3 women and setting forth goals for total hours to be  
4 performed by underrepresented minorities and women.

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

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

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

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

24 "Reference capacity price" means a price, measured in  
25 dollars per megawatt-hours, representing the revenue available  
26 for a contracted energy storage system through participation

1 in the MISO Planning Resource Auction or the PJM Base Residual  
2 Auction, or their successor resource adequacy constructs. The  
3 reference capacity price shall be calculated by adjusting the  
4 most recent clearing price in the MISO Planning Resource  
5 Auction or the PJM Base Residual Auction, or their successor  
6 resource adequacy constructs, by the accredited capacity of  
7 the contracted energy storage system and converting the units  
8 to megawatt-hours.

9 "Renewable energy credit" means a tradable credit that  
10 represents the environmental attributes of one megawatt hour  
11 of energy produced from a renewable energy resource.

12 "Renewable energy resources" includes energy and its  
13 associated renewable energy credit or renewable energy credits  
14 from wind, solar thermal energy, photovoltaic cells and  
15 panels, biodiesel, anaerobic digestion, crops and untreated  
16 and unadulterated organic waste biomass, and hydropower that  
17 does not involve new construction or significant expansion of  
18 hydropower dams, waste heat to power systems, or qualified  
19 combined heat and power systems. For purposes of this Act,  
20 landfill gas produced in the State is considered a renewable  
21 energy resource. "Renewable energy resources" does not include  
22 the incineration or burning of tires, garbage, general  
23 household, institutional, and commercial waste, industrial  
24 lunchroom or office waste, landscape waste, railroad  
25 crossties, utility poles, or construction or demolition  
26 debris, other than untreated and unadulterated waste wood.



1 "Renewable energy resources" also includes high voltage direct  
2 current renewable energy credits and the associated energy  
3 converted to alternating current by a high voltage direct  
4 current converter station to the extent that: (1) the  
5 generator of such renewable energy resource contracted with a  
6 third party to transmit the energy over the high voltage  
7 direct current transmission facilities, and (2) the  
8 third-party contracting for delivery of renewable energy  
9 resources over the high voltage direct current transmission  
10 facilities have ownership rights over the unretired associated  
11 high voltage direct current renewable energy credit.

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

14 "Revenue bond" means any bond, note, or other evidence of  
15 indebtedness issued by the Authority, the principal and  
16 interest of which is payable solely from revenues or income  
17 derived from any project or activity of the Agency.

18 "Sequester" means permanent storage of carbon dioxide by  
19 injecting it into a saline aquifer, a depleted gas reservoir,  
20 or an oil reservoir, directly or through an enhanced oil  
21 recovery process that may involve intermediate storage,  
22 regardless of whether these activities are conducted by a  
23 clean coal facility, a clean coal SNG facility, a clean coal  
24 SNG brownfield facility, or a party with which a clean coal  
25 facility, clean coal SNG facility, or clean coal SNG  
26 brownfield facility has contracted for such purposes.

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

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

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

20 "Strike price" means a contract price for energy and  
21 renewable energy credits from a new utility-scale wind project  
22 or a new utility-scale photovoltaic project.

23 "Subscriber" means a person who (i) takes delivery service  
24 from an electric utility, and (ii) has a subscription of no  
25 less than 200 watts to a community renewable generation  
26 project that is located in the electric utility's service

1 area. No subscriber's subscriptions may total more than 40% of  
2 the nameplate capacity of an individual community renewable  
3 generation project. Entities that are affiliated by virtue of  
4 a common parent shall not represent multiple subscriptions  
5 that total more than 40% of the nameplate capacity of an  
6 individual community renewable generation project.

7 "Subscription" means an interest in a community renewable  
8 generation project expressed in kilowatts, which is sized  
9 primarily to offset part or all of the subscriber's  
10 electricity usage.

11 "Substitute natural gas" or "SNG" means a gas manufactured  
12 by gasification of hydrocarbon feedstock, which is  
13 substantially interchangeable in use and distribution with  
14 conventional natural gas.

15 "Total resource cost test" or "TRC test" means a standard  
16 that is met if, for an investment in energy efficiency or  
17 demand-response measures, the benefit-cost ratio is greater  
18 than one. The benefit-cost ratio is the ratio of the net  
19 present value of the total benefits of the program to the net  
20 present value of the total costs as calculated over the  
21 lifetime of the measures. A total resource cost test compares  
22 the sum of avoided electric utility costs, representing the  
23 benefits that accrue to the system and the participant in the  
24 delivery of those efficiency measures and including avoided  
25 costs associated with reduced use of natural gas or other  
26 fuels, avoided costs associated with reduced water

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

20 "Utility-scale solar project" means an electric generating  
21 facility that:

22 (1) generates electricity using photovoltaic cells;

23 and

24 (2) has a nameplate capacity that is greater than  
25 5,000 kilowatts.

26 "Utility-scale wind project" means an electric generating

1 facility that:

2 (1) generates electricity using wind; and

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

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

8 "Zero emission credit" means a tradable credit that  
9 represents the environmental attributes of one megawatt hour  
10 of energy produced from a zero emission facility.

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

15 (Source: P.A. 102-662, eff. 9-15-21; revised 6-2-22.)

16 (20 ILCS 3855/1-20)

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

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

19 (1) Develop electricity procurement plans to ensure  
20 adequate, reliable, affordable, efficient, and  
21 environmentally sustainable electric service at the lowest  
22 total cost over time, taking into account any benefits of  
23 price stability, for electric utilities that on December  
24 31, 2005 provided electric service to at least 100,000  
25 customers in Illinois and for small multi-jurisdictional

1 electric utilities that (A) on December 31, 2005 served  
2 less than 100,000 customers in Illinois and (B) request a  
3 procurement plan for their Illinois jurisdictional load.  
4 Except as provided in paragraph (1.5) of this subsection  
5 (a), the electricity procurement plans shall be updated on  
6 an annual basis and shall include electricity generated  
7 from renewable resources sufficient to achieve the  
8 standards specified in this Act. Beginning with the  
9 delivery year commencing June 1, 2017, develop procurement  
10 plans to include zero emission credits generated from zero  
11 emission facilities sufficient to achieve the standards  
12 specified in this Act. Beginning with the delivery year  
13 commencing on June 1, 2022, the Agency is authorized to  
14 develop carbon mitigation credit procurement plans to  
15 include carbon mitigation credits generated from  
16 carbon-free energy resources sufficient to achieve the  
17 standards specified in this Act.

18 (1.5) Develop a long-term renewable resources  
19 procurement plan in accordance with subsection (c) of  
20 Section 1-75 of this Act for renewable energy credits in  
21 amounts sufficient to achieve the standards specified in  
22 this Act for delivery years commencing June 1, 2017 and  
23 for the programs and renewable energy credits specified in  
24 Section 1-56 of this Act. Electricity procurement plans  
25 for delivery years commencing after May 31, 2017, shall  
26 not include procurement of renewable energy resources.

1           (2) Conduct competitive procurement processes to  
2 procure the supply resources identified in the electricity  
3 procurement plan, pursuant to Section 16-111.5 of the  
4 Public Utilities Act, and, for the delivery year  
5 commencing June 1, 2017, conduct procurement processes to  
6 procure zero emission credits from zero emission  
7 facilities, under subsection (d-5) of Section 1-75 of this  
8 Act. For the delivery year commencing June 1, 2022, the  
9 Agency is authorized to conduct procurement processes to  
10 procure carbon mitigation credits from carbon-free energy  
11 resources, under subsection (d-10) of Section 1-75 of this  
12 Act.

13           (2.5) Beginning with the procurement for the 2017  
14 delivery year, conduct competitive procurement processes  
15 and implement programs to procure renewable energy credits  
16 identified in the long-term renewable resources  
17 procurement plan developed and approved under subsection  
18 (c) of Section 1-75 of this Act and Section 16-111.5 of the  
19 Public Utilities Act.

20           (2.10) Oversee the procurement by electric utilities  
21 that served more than 300,000 customers in this State as  
22 of January 1, 2019 of renewable energy credits from new  
23 renewable energy facilities to be installed, along with  
24 energy storage facilities, at or adjacent to the sites of  
25 electric generating facilities that burned coal as their  
26 primary fuel source as of January 1, 2016 in accordance

1 with subsection (c-5) of Section 1-75 of this Act.

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

6 (4) Supply electricity from the Agency's facilities at  
7 cost to one or more of the following: municipal electric  
8 systems, governmental aggregators, or rural electric  
9 cooperatives in Illinois.

10 (5) Conduct competitive solicitations to procure  
11 energy storage credits sufficient to achieve, at minimum,  
12 the energy storage standard under Section 1-93 of this  
13 Act.

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

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

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

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

25 (4) To obtain and employ personnel and hire  
26 consultants that are necessary to fulfill the Agency's



1 purposes, and to make expenditures for that purpose within  
2 the appropriations for that purpose.

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

8 (6) To acquire real or personal property, whether  
9 tangible or intangible, including without limitation  
10 property rights, interests in property, franchises,  
11 obligations, contracts, and debt and equity securities,  
12 and to do so by the exercise of the power of eminent domain  
13 in accordance with Section 1-21; except that any real  
14 property acquired by the exercise of the power of eminent  
15 domain must be located within the State.

16 (7) To sell, convey, lease, exchange, transfer,  
17 abandon, or otherwise dispose of, or mortgage, pledge, or  
18 create a security interest in, any of its assets,  
19 properties, or any interest therein, wherever situated.

20 (8) To purchase, take, receive, subscribe for, or  
21 otherwise acquire, hold, make a tender offer for, vote,  
22 employ, sell, lend, lease, exchange, transfer, or  
23 otherwise dispose of, mortgage, pledge, or grant a  
24 security interest in, use, and otherwise deal in and with,  
25 bonds and other obligations, shares, or other securities  
26 (or interests therein) issued by others, whether engaged

1 in a similar or different business or activity.

2 (9) To make and execute agreements, contracts, and  
3 other instruments necessary or convenient in the exercise  
4 of the powers and functions of the Agency under this Act,  
5 including contracts with any person, including personal  
6 service contracts, or with any local government, State  
7 agency, or other entity; and all State agencies and all  
8 local governments are authorized to enter into and do all  
9 things necessary to perform any such agreement, contract,  
10 or other instrument with the Agency. No such agreement,  
11 contract, or other instrument shall exceed 40 years.

12 (10) To lend money, invest and reinvest its funds in  
13 accordance with the Public Funds Investment Act, and take  
14 and hold real and personal property as security for the  
15 payment of funds loaned or invested.

16 (11) To borrow money at such rate or rates of interest  
17 as the Agency may determine, issue its notes, bonds, or  
18 other obligations to evidence that indebtedness, and  
19 secure any of its obligations by mortgage or pledge of its  
20 real or personal property, machinery, equipment,  
21 structures, fixtures, inventories, revenues, grants, and  
22 other funds as provided or any interest therein, wherever  
23 situated.

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

1           (13) To procure insurance against any loss in  
2 connection with its properties or operations in such  
3 amount or amounts and from such insurers, including the  
4 federal government, as it may deem necessary or desirable,  
5 and to pay any premiums therefor.

6           (14) To negotiate and enter into agreements with  
7 trustees or receivers appointed by United States  
8 bankruptcy courts or federal district courts or in other  
9 proceedings involving adjustment of debts and authorize  
10 proceedings involving adjustment of debts and authorize  
11 legal counsel for the Agency to appear in any such  
12 proceedings.

13           (15) To file a petition under Chapter 9 of Title 11 of  
14 the United States Bankruptcy Code or take other similar  
15 action for the adjustment of its debts.

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

19           (17) To enter into an agreement to transfer and to  
20 transfer any land, facilities, fixtures, or equipment of  
21 the Agency to one or more municipal electric systems,  
22 governmental aggregators, or rural electric agencies or  
23 cooperatives, for such consideration and upon such terms  
24 as the Agency may determine to be in the best interest of  
25 the residents of Illinois.

26           (18) To enter upon any lands and within any building

1           whenever in its judgment it may be necessary for the  
2           purpose of making surveys and examinations to accomplish  
3           any purpose authorized by this Act.

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

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

10          (21) To accept and expend appropriations.

11          (22) To engage in any activity or operation that is  
12          incidental to and in furtherance of efficient operation to  
13          accomplish the Agency's purposes, including hiring  
14          employees that the Director deems essential for the  
15          operations of the Agency.

16          (23) To adopt, revise, amend, and repeal rules with  
17          respect to its operations, properties, and facilities as  
18          may be necessary or convenient to carry out the purposes  
19          of this Act, subject to the provisions of the Illinois  
20          Administrative Procedure Act and Sections 1-22 and 1-35 of  
21          this Act.

22          (24) To establish and collect charges and fees as  
23          described in this Act.

24          (25) To conduct competitive gasification feedstock  
25          procurement processes to procure the feedstocks for the  
26          clean coal SNG brownfield facility in accordance with the

1 requirements of Section 1-78 of this Act.

2 (26) To review, revise, and approve sourcing  
3 agreements and mediate and resolve disputes between gas  
4 utilities and the clean coal SNG brownfield facility  
5 pursuant to subsection (h-1) of Section 9-220 of the  
6 Public Utilities Act.

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

13 (28) To ensure Illinois residents and business benefit  
14 from programs administered by the Agency and are properly  
15 protected from any deceptive or misleading marketing  
16 practices by participants in the Agency's programs and  
17 procurements.

18 (29) To request, review, and accept proposals, execute  
19 contracts, and procure energy storage credits.

20 (c) In conducting the procurement of electricity or other  
21 products, beginning January 1, 2022, the Agency shall not  
22 procure any products or services from persons or organizations  
23 that are in violation of the Displaced Energy Workers Bill of  
24 Rights, as provided under the Energy Community Reinvestment  
25 Act at the time of the procurement event or fail to comply the  
26 labor standards established in subparagraph (Q) of paragraph

1 (1) of subsection (c) of Section 1-75.

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

3 (20 ILCS 3855/1-93 new)

4 Sec. 1-93. Energy storage credit targets.

5 (a) The Agency shall develop a storage procurement plan  
6 that results in the electric utilities contracting for energy  
7 storage credits from contracted energy storage systems in the  
8 following amounts:

9 (1) at least 1,000 megawatts of cumulative energy  
10 storage capacity by the end of delivery year 2024;

11 (2) at least 3,000 megawatts of cumulative energy  
12 storage capacity by delivery year 2026;

13 (3) at least 5,000 megawatts of cumulative energy  
14 storage capacity by delivery year 2028; and

15 (4) at least 7,500 megawatts of cumulative energy  
16 storage capacity by delivery year 2030.

17 (b) Within 90 days of the effective date of this  
18 amendatory Act of the 103rd General Assembly, the Agency shall  
19 develop an energy storage procurement plan in accordance with  
20 this Section and Section 16-111.5 of the Public Utilities Act.

21 (c) For all procurements of energy storage credits, the  
22 Agency shall procure indexed energy storage credits and direct  
23 respondents to offer an energy storage strike price. The  
24 purchase price of the indexed energy storage credit payment  
25 shall be calculated for each settlement period. The payment,

1 for any settlement period, shall be equal to the difference  
2 resulting from subtracting from the energy storage strike  
3 price the sum of the daily energy volatility index and the  
4 reference capacity price for that settlement period. If this  
5 difference results in a positive number, the electric utility  
6 shall owe the seller this amount multiplied by the number of  
7 indexed energy storage credits produced in the relevant  
8 settlement period. If this difference results in a negative  
9 number, the settlement shall be zero. The parties shall cash  
10 settle every month, summing up all settlements for the prior  
11 month.

12 (d) All procurements under this Section shall comply with  
13 the geographic requirements in subparagraph (I) of paragraph  
14 (1) of subsection (c) of Section 1-75 and shall follow the  
15 procurement processes and procedures described in this Section  
16 and Section 16-111.5 of the Public Utilities Act to the extent  
17 practicable, and these processes and procedures may be  
18 expedited to accommodate the schedule established by this  
19 Section. The Agency shall select bids based solely on the  
20 strike price. The winning bidders shall comply with the  
21 prevailing wage requirements in subparagraph (Q) of paragraph  
22 (1) of subsection (c) of Section 1-75 and equity  
23 accountability system requirements in Section (c-10) of  
24 Section 1-75.

25 (e) No later than December 31, 2026 and every 2 years  
26 thereafter, the Agency shall conduct an analysis to determine

1 whether the contracted quantity of energy storage in energy  
2 storage capacity and energy storage duration is sufficient to  
3 support the State's renewable energy standards and carbon  
4 emission standards. To conduct the analysis, the Agency shall  
5 retain an independent consultant with experience in wholesale  
6 electric system modeling in PJM and MISO and may seek the  
7 support of the federal Department of Energy and National Labs  
8 to conduct its analysis. The independent consultant shall  
9 utilize a production cost model, capacity expansion model, or  
10 similar comprehensive analysis of the electricity systems and  
11 shall provide opportunities for stakeholders to provide  
12 feedback on the scope, inputs, and assumptions used in the  
13 analysis. The Agency is authorized to collect costs for  
14 conducting the analysis from electric utilities. The electric  
15 utilities are authorized to recover the cost of the analysis  
16 as part of the recovery of the cost of energy storage credits,  
17 as authorized in this Section and Section 16-108 of the Public  
18 Utilities Act. If the Agency determines that the need for  
19 energy storage capacity or energy storage duration is greater  
20 than the energy storage credit target in this Section, the  
21 Agency shall establish and the Commission shall approve new  
22 energy storage credit targets to meet the identified need. If  
23 the Agency determines that deployment of energy storage beyond  
24 2030 will not be achieved through wholesale market prices and  
25 other energy storage programs established by the State, the  
26 Agency shall establish additional targets for years beyond



1 2030.

2 (20 ILCS 3855/1-94 new)

3 Sec. 1-94. Firm energy resource procurement plan. The  
4 Agency is authorized to develop and implement a firm energy  
5 resource procurement plan for new resources, including  
6 initiating proceedings and conducting competitive  
7 solicitations to deploy new long-duration and multi-day energy  
8 storage. The procurement plan shall ensure regular procurement  
9 opportunities to deploy new long-duration and multi-day energy  
10 storage resources by 2030 and shall ensure stable, competitive  
11 resource development at a pace needed to ensure grid  
12 reliability and resilience during atypical or extreme grid  
13 conditions that may occur at least once in 20 years while  
14 meeting the emissions requirements of Section 9.15 of the  
15 Environmental Protection Act.

16 The Agency's plan shall ensure that a minimum of 2 new  
17 long-duration or multi-day energy storage resources each with  
18 a rated capacity greater than 20 megawatts shall be deployed  
19 or contracted by the end of delivery year 2026.

20 Within 365 days of the effective date of this amendatory  
21 Act of the 103rd General Assembly, the Agency shall develop a  
22 firm energy resource procurement plan in accordance with this  
23 Section and Section 16-111.5 of the Public Utilities Act.

24 Section 10. The Public Utilities Act is amended by

1 changing Sections 16-108 and 16-111.5 as follows:

2 (220 ILCS 5/16-108)

3 Sec. 16-108. Recovery of costs associated with the  
4 provision of delivery and other services.

5 (a) An electric utility shall file a delivery services  
6 tariff with the Commission at least 210 days prior to the date  
7 that it is required to begin offering such services pursuant  
8 to this Act. An electric utility shall provide the components  
9 of delivery services that are subject to the jurisdiction of  
10 the Federal Energy Regulatory Commission at the same prices,  
11 terms and conditions set forth in its applicable tariff as  
12 approved or allowed into effect by that Commission. The  
13 Commission shall otherwise have the authority pursuant to  
14 Article IX to review, approve, and modify the prices, terms  
15 and conditions of those components of delivery services not  
16 subject to the jurisdiction of the Federal Energy Regulatory  
17 Commission, including the authority to determine the extent to  
18 which such delivery services should be offered on an unbundled  
19 basis. In making any such determination the Commission shall  
20 consider, at a minimum, the effect of additional unbundling on  
21 (i) the objective of just and reasonable rates, (ii) electric  
22 utility employees, and (iii) the development of competitive  
23 markets for electric energy services in Illinois.

24 (b) The Commission shall enter an order approving, or  
25 approving as modified, the delivery services tariff no later

1 than 30 days prior to the date on which the electric utility  
2 must commence offering such services. The Commission may  
3 subsequently modify such tariff pursuant to this Act.

4 (c) The electric utility's tariffs shall define the  
5 classes of its customers for purposes of delivery services  
6 charges. Delivery services shall be priced and made available  
7 to all retail customers electing delivery services in each  
8 such class on a nondiscriminatory basis regardless of whether  
9 the retail customer chooses the electric utility, an affiliate  
10 of the electric utility, or another entity as its supplier of  
11 electric power and energy. Charges for delivery services shall  
12 be cost based, and shall allow the electric utility to recover  
13 the costs of providing delivery services through its charges  
14 to its delivery service customers that use the facilities and  
15 services associated with such costs. Such costs shall include  
16 the costs of owning, operating and maintaining transmission  
17 and distribution facilities. The Commission shall also be  
18 authorized to consider whether, and if so to what extent, the  
19 following costs are appropriately included in the electric  
20 utility's delivery services rates: (i) the costs of that  
21 portion of generation facilities used for the production and  
22 absorption of reactive power in order that retail customers  
23 located in the electric utility's service area can receive  
24 electric power and energy from suppliers other than the  
25 electric utility, and (ii) the costs associated with the use  
26 and redispatch of generation facilities to mitigate

1 constraints on the transmission or distribution system in  
2 order that retail customers located in the electric utility's  
3 service area can receive electric power and energy from  
4 suppliers other than the electric utility. Nothing in this  
5 subsection shall be construed as directing the Commission to  
6 allocate any of the costs described in (i) or (ii) that are  
7 found to be appropriately included in the electric utility's  
8 delivery services rates to any particular customer group or  
9 geographic area in setting delivery services rates.

10 (d) The Commission shall establish charges, terms and  
11 conditions for delivery services that are just and reasonable  
12 and shall take into account customer impacts when establishing  
13 such charges. In establishing charges, terms and conditions  
14 for delivery services, the Commission shall take into account  
15 voltage level differences. A retail customer shall have the  
16 option to request to purchase electric service at any delivery  
17 service voltage reasonably and technically feasible from the  
18 electric facilities serving that customer's premises provided  
19 that there are no significant adverse impacts upon system  
20 reliability or system efficiency. A retail customer shall also  
21 have the option to request to purchase electric service at any  
22 point of delivery that is reasonably and technically feasible  
23 provided that there are no significant adverse impacts on  
24 system reliability or efficiency. Such requests shall not be  
25 unreasonably denied.

26 (e) Electric utilities shall recover the costs of

1 installing, operating or maintaining facilities for the  
2 particular benefit of one or more delivery services customers,  
3 including without limitation any costs incurred in complying  
4 with a customer's request to be served at a different voltage  
5 level, directly from the retail customer or customers for  
6 whose benefit the costs were incurred, to the extent such  
7 costs are not recovered through the charges referred to in  
8 subsections (c) and (d) of this Section.

9 (f) An electric utility shall be entitled but not required  
10 to implement transition charges in conjunction with the  
11 offering of delivery services pursuant to Section 16-104. If  
12 an electric utility implements transition charges, it shall  
13 implement such charges for all delivery services customers and  
14 for all customers described in subsection (h), but shall not  
15 implement transition charges for power and energy that a  
16 retail customer takes from cogeneration or self-generation  
17 facilities located on that retail customer's premises, if such  
18 facilities meet the following criteria:

19 (i) the cogeneration or self-generation facilities  
20 serve a single retail customer and are located on that  
21 retail customer's premises (for purposes of this  
22 subparagraph and subparagraph (ii), an industrial or  
23 manufacturing retail customer and a third party contractor  
24 that is served by such industrial or manufacturing  
25 customer through such retail customer's own electrical  
26 distribution facilities under the circumstances described

1 in subsection (vi) of the definition of "alternative  
2 retail electric supplier" set forth in Section 16-102,  
3 shall be considered a single retail customer);

4 (ii) the cogeneration or self-generation facilities  
5 either (A) are sized pursuant to generally accepted  
6 engineering standards for the retail customer's electrical  
7 load at that premises (taking into account standby or  
8 other reliability considerations related to that retail  
9 customer's operations at that site) or (B) if the facility  
10 is a cogeneration facility located on the retail  
11 customer's premises, the retail customer is the thermal  
12 host for that facility and the facility has been designed  
13 to meet that retail customer's thermal energy requirements  
14 resulting in electrical output beyond that retail  
15 customer's electrical demand at that premises, comply with  
16 the operating and efficiency standards applicable to  
17 "qualifying facilities" specified in title 18 Code of  
18 Federal Regulations Section 292.205 as in effect on the  
19 effective date of this amendatory Act of 1999;

20 (iii) the retail customer on whose premises the  
21 facilities are located either has an exclusive right to  
22 receive, and corresponding obligation to pay for, all of  
23 the electrical capacity of the facility, or in the case of  
24 a cogeneration facility that has been designed to meet the  
25 retail customer's thermal energy requirements at that  
26 premises, an identified amount of the electrical capacity

1 of the facility, over a minimum 5-year period; and  
2 (iv) if the cogeneration facility is sized for the  
3 retail customer's thermal load at that premises but  
4 exceeds the electrical load, any sales of excess power or  
5 energy are made only at wholesale, are subject to the  
6 jurisdiction of the Federal Energy Regulatory Commission,  
7 and are not for the purpose of circumventing the  
8 provisions of this subsection (f).

9 If a generation facility located at a retail customer's  
10 premises does not meet the above criteria, an electric utility  
11 implementing transition charges shall implement a transition  
12 charge until December 31, 2006 for any power and energy taken  
13 by such retail customer from such facility as if such power and  
14 energy had been delivered by the electric utility. Provided,  
15 however, that an industrial retail customer that is taking  
16 power from a generation facility that does not meet the above  
17 criteria but that is located on such customer's premises will  
18 not be subject to a transition charge for the power and energy  
19 taken by such retail customer from such generation facility if  
20 the facility does not serve any other retail customer and  
21 either was installed on behalf of the customer and for its own  
22 use prior to January 1, 1997, or is both predominantly fueled  
23 by byproducts of such customer's manufacturing process at such  
24 premises and sells or offers an average of 300 megawatts or  
25 more of electricity produced from such generation facility  
26 into the wholesale market. Such charges shall be calculated as

1 provided in Section 16-102, and shall be collected on each  
2 kilowatt-hour delivered under a delivery services tariff to a  
3 retail customer from the date the customer first takes  
4 delivery services until December 31, 2006 except as provided  
5 in subsection (h) of this Section. Provided, however, that an  
6 electric utility, other than an electric utility providing  
7 service to at least 1,000,000 customers in this State on  
8 January 1, 1999, shall be entitled to petition for entry of an  
9 order by the Commission authorizing the electric utility to  
10 implement transition charges for an additional period ending  
11 no later than December 31, 2008. The electric utility shall  
12 file its petition with supporting evidence no earlier than 16  
13 months, and no later than 12 months, prior to December 31,  
14 2006. The Commission shall hold a hearing on the electric  
15 utility's petition and shall enter its order no later than 8  
16 months after the petition is filed. The Commission shall  
17 determine whether and to what extent the electric utility  
18 shall be authorized to implement transition charges for an  
19 additional period. The Commission may authorize the electric  
20 utility to implement transition charges for some or all of the  
21 additional period, and shall determine the mitigation factors  
22 to be used in implementing such transition charges; provided,  
23 that the Commission shall not authorize mitigation factors  
24 less than 110% of those in effect during the 12 months ended  
25 December 31, 2006. In making its determination, the Commission  
26 shall consider the following factors: the necessity to



1 implement transition charges for an additional period in order  
2 to maintain the financial integrity of the electric utility;  
3 the prudence of the electric utility's actions in reducing its  
4 costs since the effective date of this amendatory Act of 1997;  
5 the ability of the electric utility to provide safe, adequate  
6 and reliable service to retail customers in its service area;  
7 and the impact on competition of allowing the electric utility  
8 to implement transition charges for the additional period.

9 (g) The electric utility shall file tariffs that establish  
10 the transition charges to be paid by each class of customers to  
11 the electric utility in conjunction with the provision of  
12 delivery services. The electric utility's tariffs shall define  
13 the classes of its customers for purposes of calculating  
14 transition charges. The electric utility's tariffs shall  
15 provide for the calculation of transition charges on a  
16 customer-specific basis for any retail customer whose average  
17 monthly maximum electrical demand on the electric utility's  
18 system during the 6 months with the customer's highest monthly  
19 maximum electrical demands equals or exceeds 3.0 megawatts for  
20 electric utilities having more than 1,000,000 customers, and  
21 for other electric utilities for any customer that has an  
22 average monthly maximum electrical demand on the electric  
23 utility's system of one megawatt or more, and (A) for which  
24 there exists data on the customer's usage during the 3 years  
25 preceding the date that the customer became eligible to take  
26 delivery services, or (B) for which there does not exist data

1 on the customer's usage during the 3 years preceding the date  
2 that the customer became eligible to take delivery services,  
3 if in the electric utility's reasonable judgment there exists  
4 comparable usage information or a sufficient basis to develop  
5 such information, and further provided that the electric  
6 utility can require customers for which an individual  
7 calculation is made to sign contracts that set forth the  
8 transition charges to be paid by the customer to the electric  
9 utility pursuant to the tariff.

10 (h) An electric utility shall also be entitled to file  
11 tariffs that allow it to collect transition charges from  
12 retail customers in the electric utility's service area that  
13 do not take delivery services but that take electric power or  
14 energy from an alternative retail electric supplier or from an  
15 electric utility other than the electric utility in whose  
16 service area the customer is located. Such charges shall be  
17 calculated, in accordance with the definition of transition  
18 charges in Section 16-102, for the period of time that the  
19 customer would be obligated to pay transition charges if it  
20 were taking delivery services, except that no deduction for  
21 delivery services revenues shall be made in such calculation,  
22 and usage data from the customer's class shall be used where  
23 historical usage data is not available for the individual  
24 customer. The customer shall be obligated to pay such charges  
25 on a lump sum basis on or before the date on which the customer  
26 commences to take service from the alternative retail electric

1 supplier or other electric utility, provided, that the  
2 electric utility in whose service area the customer is located  
3 shall offer the customer the option of signing a contract  
4 pursuant to which the customer pays such charges ratably over  
5 the period in which the charges would otherwise have applied.

6 (i) An electric utility shall be entitled to add to the  
7 bills of delivery services customers charges pursuant to  
8 Sections 9-221, 9-222 (except as provided in Section 9-222.1),  
9 and Section 16-114 of this Act, Section 5-5 of the Electricity  
10 Infrastructure Maintenance Fee Law, Section 6-5 of the  
11 Renewable Energy, Energy Efficiency, and Coal Resources  
12 Development Law of 1997, and Section 13 of the Energy  
13 Assistance Act.

14 (i-5) An electric utility required to impose the Coal to  
15 Solar and Energy Storage Initiative Charge provided for in  
16 subsection (c-5) of Section 1-75 of the Illinois Power Agency  
17 Act shall add such charge to the bills of its delivery services  
18 customers pursuant to the terms of a tariff conforming to the  
19 requirements of subsection (c-5) of Section 1-75 of the  
20 Illinois Power Agency Act and this subsection (i-5) and filed  
21 with and approved by the Commission. The electric utility  
22 shall file its proposed tariff with the Commission on or  
23 before July 1, 2022 to be effective, after review and approval  
24 or modification by the Commission, beginning January 1, 2023.  
25 On or before December 1, 2022, the Commission shall review the  
26 electric utility's proposed tariff, including by conducting a

1 docketed proceeding if deemed necessary by the Commission, and  
2 shall approve the proposed tariff or direct the electric  
3 utility to make modifications the Commission finds necessary  
4 for the tariff to conform to the requirements of subsection  
5 (c-5) of Section 1-75 of the Illinois Power Agency Act and this  
6 subsection (i-5). The electric utility's tariff shall provide  
7 for imposition of the Coal to Solar and Energy Storage  
8 Initiative Charge on a per-kilowatthour basis to all  
9 kilowatthours delivered by the electric utility to its  
10 delivery services customers. The tariff shall provide for the  
11 calculation of the Coal to Solar and Energy Storage Initiative  
12 Charge to be in effect for the year beginning January 1, 2023  
13 and each year beginning January 1 thereafter, sufficient to  
14 collect the electric utility's estimated payment obligations  
15 for the delivery year beginning the following June 1 under  
16 contracts for purchase of renewable energy credits entered  
17 into pursuant to subsection (c-5) of Section 1-75 of the  
18 Illinois Power Agency Act and the obligations of the  
19 Department of Commerce and Economic Opportunity, or any  
20 successor department or agency, which for purposes of this  
21 subsection (i-5) shall be referred to as the Department, to  
22 make grant payments during such delivery year from the Coal to  
23 Solar and Energy Storage Initiative Fund pursuant to grant  
24 contracts entered into pursuant to subsection (c-5) of Section  
25 1-75 of the Illinois Power Agency Act, and using the electric  
26 utility's kilowatthour deliveries to its delivery services

1 customers during the delivery year ended May 31 of the  
2 preceding calendar year. On or before November 1 of each year  
3 beginning November 1, 2022, the Department shall notify the  
4 electric utilities of the amount of the Department's estimated  
5 obligations for grant payments during the delivery year  
6 beginning the following June 1 pursuant to grant contracts  
7 entered into pursuant to subsection (c-5) of Section 1-75 of  
8 the Illinois Power Agency Act; and each electric utility shall  
9 incorporate in the calculation of its Coal to Solar and Energy  
10 Storage Initiative Charge the fractional portion of the  
11 Department's estimated obligations equal to the electric  
12 utility's kilowatthour deliveries to its delivery services  
13 customers in the delivery year ended the preceding May 31  
14 divided by the aggregate deliveries of both electric utilities  
15 to delivery services customers in such delivery year. The  
16 electric utility shall remit on a monthly basis to the State  
17 Treasurer, for deposit in the Coal to Solar and Energy Storage  
18 Initiative Fund provided for in subsection (c-5) of Section  
19 1-75 of the Illinois Power Agency Act, the electric utility's  
20 collections of the Coal to Solar and Energy Storage Initiative  
21 Charge estimated to be needed by the Department for grant  
22 payments pursuant to grant contracts entered into pursuant to  
23 subsection (c-5) of Section 1-75 of the Illinois Power Agency  
24 Act. The initial charge under the electric utility's tariff  
25 shall be effective for kilowatthours delivered beginning  
26 January 1, 2023, and thereafter shall be revised to be

1 effective January 1, 2024 and each January 1 thereafter, based  
2 on the payment obligations for the delivery year beginning the  
3 following June 1. The tariff shall provide for the electric  
4 utility to make an annual filing with the Commission on or  
5 before November 15 of each year, beginning in 2023, setting  
6 forth the Coal to Solar and Energy Storage Initiative Charge  
7 to be in effect for the year beginning the following January 1.  
8 The electric utility's tariff shall also provide that the  
9 electric utility shall make a filing with the Commission on or  
10 before August 1 of each year beginning in 2024 setting forth a  
11 reconciliation, for the delivery year ended the preceding May  
12 31, of the electric utility's collections of the Coal to Solar  
13 and Energy Storage Initiative Charge against actual payments  
14 for renewable energy credits pursuant to contracts entered  
15 into, and the actual grant payments by the Department pursuant  
16 to grant contracts entered into, pursuant to subsection (c-5)  
17 of Section 1-75 of the Illinois Power Agency Act. The tariff  
18 shall provide that any excess or shortfall of collections to  
19 payments shall be deducted from or added to, on a  
20 per-kilowatthour basis, the Coal to Solar and Energy Storage  
21 Initiative Charge, over the 6-month period beginning October 1  
22 of that calendar year.

23 (j) If a retail customer that obtains electric power and  
24 energy from cogeneration or self-generation facilities  
25 installed for its own use on or before January 1, 1997,  
26 subsequently takes service from an alternative retail electric

1 supplier or an electric utility other than the electric  
2 utility in whose service area the customer is located for any  
3 portion of the customer's electric power and energy  
4 requirements formerly obtained from those facilities  
5 (including that amount purchased from the utility in lieu of  
6 such generation and not as standby power purchases, under a  
7 cogeneration displacement tariff in effect as of the effective  
8 date of this amendatory Act of 1997), the transition charges  
9 otherwise applicable pursuant to subsections (f), (g), or (h)  
10 of this Section shall not be applicable in any year to that  
11 portion of the customer's electric power and energy  
12 requirements formerly obtained from those facilities,  
13 provided, that for purposes of this subsection (j), such  
14 portion shall not exceed the average number of kilowatt-hours  
15 per year obtained from the cogeneration or self-generation  
16 facilities during the 3 years prior to the date on which the  
17 customer became eligible for delivery services, except as  
18 provided in subsection (f) of Section 16-110.

19 (k) The electric utility shall be entitled to recover  
20 through tariffed charges all of the costs associated with the  
21 purchase of zero emission credits from zero emission  
22 facilities to meet the requirements of subsection (d-5) of  
23 Section 1-75 of the Illinois Power Agency Act and all of the  
24 costs associated with the purchase of carbon mitigation  
25 credits from carbon-free energy resources to meet the  
26 requirements of subsection (d-10) of Section 1-75 of the

1 Illinois Power Agency Act. Such costs shall include the costs  
2 of procuring the zero emission credits and carbon mitigation  
3 credits from carbon-free energy resources, as well as the  
4 reasonable costs that the utility incurs as part of the  
5 procurement processes and to implement and comply with plans  
6 and processes approved by the Commission under subsections  
7 (d-5) and (d-10). The costs shall be allocated across all  
8 retail customers through a single, uniform cents per  
9 kilowatt-hour charge applicable to all retail customers, which  
10 shall appear as a separate line item on each customer's bill.  
11 Beginning June 1, 2024, the electric utility shall be entitled  
12 to recover through tariffed charges all of the costs  
13 associated with the purchase of energy storage credits to meet  
14 the energy storage standards of Section 1-93 of the Illinois  
15 Power Agency Act under procurement plans as approved in  
16 accordance with that Section and Section 16-111.5 of this Act.  
17 Such costs shall include the costs of procuring the energy  
18 storage credits and the reasonable costs that the utility  
19 incurs as part of the procurement processes and implementing  
20 and complying with plans and processes approved by the  
21 Commission under such Sections. The costs associated with the  
22 purchase of energy storage credits shall be allocated across  
23 all retail customers in proportion to the amount of energy  
24 storage credits the electric utility procures for such  
25 customers through a single, uniform cents per kilowatthour  
26 charge applicable to such retail customers, which shall appear



1 as a separate line item on each customer's bill. Beginning  
2 June 1, 2017, the electric utility shall be entitled to  
3 recover through tariffed charges all of the costs associated  
4 with the purchase of renewable energy resources to meet the  
5 renewable energy resource standards of subsection (c) of  
6 Section 1-75 of the Illinois Power Agency Act, under  
7 procurement plans as approved in accordance with that Section  
8 and Section 16-111.5 of this Act. Such costs shall include the  
9 costs of procuring the renewable energy resources, as well as  
10 the reasonable costs that the utility incurs as part of the  
11 procurement processes and to implement and comply with plans  
12 and processes approved by the Commission under such Sections.  
13 The costs associated with the purchase of renewable energy  
14 resources shall be allocated across all retail customers in  
15 proportion to the amount of renewable energy resources the  
16 utility procures for such customers through a single, uniform  
17 cents per kilowatt-hour charge applicable to such retail  
18 customers, which shall appear as a separate line item on each  
19 such customer's bill. The credits, costs, and penalties  
20 associated with the self-direct renewable portfolio standard  
21 compliance program described in subparagraph (R) of paragraph  
22 (1) of subsection (c) of Section 1-75 of the Illinois Power  
23 Agency Act shall be allocated to approved eligible self-direct  
24 customers by the utility in a cents per kilowatt-hour credit,  
25 cost, or penalty, which shall appear as a separate line item on  
26 each such customer's bill.

1           Notwithstanding whether the Commission has approved the  
2           initial long-term renewable resources procurement plan as of  
3           June 1, 2017, an electric utility shall place new tariffed  
4           charges into effect beginning with the June 2017 monthly  
5           billing period, to the extent practicable, to begin recovering  
6           the costs of procuring renewable energy resources, as those  
7           charges are calculated under the limitations described in  
8           subparagraph (E) of paragraph (1) of subsection (c) of Section  
9           1-75 of the Illinois Power Agency Act. Notwithstanding the  
10          date on which the utility places such new tariffed charges  
11          into effect, the utility shall be permitted to collect the  
12          charges under such tariff as if the tariff had been in effect  
13          beginning with the first day of the June 2017 monthly billing  
14          period. For the delivery years commencing June 1, 2017, June  
15          1, 2018, June 1, 2019, and each delivery year thereafter, the  
16          electric utility shall deposit into a separate interest  
17          bearing account of a financial institution the monies  
18          collected under the tariffed charges. Money collected from  
19          customers for the procurement of renewable energy resources in  
20          a given delivery year may be spent by the utility for the  
21          procurement of renewable resources over any of the following 5  
22          delivery years, after which unspent money shall be credited  
23          back to retail customers. The electric utility shall spend all  
24          money collected in earlier delivery years that has not yet  
25          been returned to customers, first, before spending money  
26          collected in later delivery years. Any interest earned shall

1 be credited back to retail customers under the reconciliation  
2 proceeding provided for in this subsection (k), provided that  
3 the electric utility shall first be reimbursed from the  
4 interest for the administrative costs that it incurs to  
5 administer and manage the account. Any taxes due on the funds  
6 in the account, or interest earned on it, will be paid from the  
7 account or, if insufficient monies are available in the  
8 account, from the monies collected under the tariffed charges  
9 to recover the costs of procuring renewable energy resources.  
10 Monies deposited in the account shall be subject to the  
11 review, reconciliation, and true-up process described in this  
12 subsection (k) that is applicable to the funds collected and  
13 costs incurred for the procurement of renewable energy  
14 resources.

15 The electric utility shall be entitled to recover all of  
16 the costs identified in this subsection (k) through automatic  
17 adjustment clause tariffs applicable to all of the utility's  
18 retail customers that allow the electric utility to adjust its  
19 tariffed charges consistent with this subsection (k). The  
20 determination as to whether any excess funds were collected  
21 during a given delivery year for the purchase of renewable  
22 energy resources, and the crediting of any excess funds back  
23 to retail customers, shall not be made until after the close of  
24 the delivery year, which will ensure that the maximum amount  
25 of funds is available to implement the approved long-term  
26 renewable resources procurement plan during a given delivery

1 year. The amount of excess funds eligible to be credited back  
2 to retail customers shall be reduced by an amount equal to the  
3 payment obligations required by any contracts entered into by  
4 an electric utility under contracts described in subsection  
5 (b) of Section 1-56 and subsection (c) of Section 1-75 of the  
6 Illinois Power Agency Act, even if such payments have not yet  
7 been made and regardless of the delivery year in which those  
8 payment obligations were incurred. Notwithstanding anything to  
9 the contrary, including in tariffs authorized by this  
10 subsection (k) in effect before the effective date of this  
11 amendatory Act of the 102nd General Assembly, all unspent  
12 funds as of May 31, 2021, excluding any funds credited to  
13 customers during any utility billing cycle that commences  
14 prior to the effective date of this amendatory Act of the 102nd  
15 General Assembly, shall remain in the utility account and  
16 shall on a first in, first out basis be used toward utility  
17 payment obligations under contracts described in subsection  
18 (b) of Section 1-56 and subsection (c) of Section 1-75 of the  
19 Illinois Power Agency Act. The electric utility's collections  
20 under such automatic adjustment clause tariffs to recover the  
21 costs of renewable energy resources, zero emission credits  
22 from zero emission facilities, and carbon mitigation credits  
23 from carbon-free energy resources shall be subject to separate  
24 annual review, reconciliation, and true-up against actual  
25 costs by the Commission under a procedure that shall be  
26 specified in the electric utility's automatic adjustment

1 clause tariffs and that shall be approved by the Commission in  
2 connection with its approval of such tariffs. The procedure  
3 shall provide that any difference between the electric  
4 utility's collections for zero emission credits and carbon  
5 mitigation credits under the automatic adjustment charges for  
6 an annual period and the electric utility's actual costs of  
7 zero emission credits from zero emission facilities and carbon  
8 mitigation credits from carbon-free energy resources for that  
9 same annual period shall be refunded to or collected from, as  
10 applicable, the electric utility's retail customers in  
11 subsequent periods.

12 Nothing in this subsection (k) is intended to affect,  
13 limit, or change the right of the electric utility to recover  
14 the costs associated with the procurement of renewable energy  
15 resources for periods commencing before, on, or after June 1,  
16 2017, as otherwise provided in the Illinois Power Agency Act.

17 The funding available under this subsection (k), if any,  
18 for the programs described under subsection (b) of Section  
19 1-56 of the Illinois Power Agency Act shall not reduce the  
20 amount of funding for the programs described in subparagraph  
21 (O) of paragraph (1) of subsection (c) of Section 1-75 of the  
22 Illinois Power Agency Act. If funding is available under this  
23 subsection (k) for programs described under subsection (b) of  
24 Section 1-56 of the Illinois Power Agency Act, then the  
25 long-term renewable resources plan shall provide for the  
26 Agency to procure contracts in an amount that does not exceed

1 the funding, and the contracts approved by the Commission  
2 shall be executed by the applicable utility or utilities.

3 (1) A utility that has terminated any contract executed  
4 under subsection (d-5) or (d-10) of Section 1-75 of the  
5 Illinois Power Agency Act shall be entitled to recover any  
6 remaining balance associated with the purchase of zero  
7 emission credits prior to such termination, and such utility  
8 shall also apply a credit to its retail customer bills in the  
9 event of any over-collection.

10 (m)(1) An electric utility that recovers its costs of  
11 procuring zero emission credits from zero emission facilities  
12 through a cents-per-kilowatthour charge under subsection (k)  
13 of this Section shall be subject to the requirements of this  
14 subsection (m). Notwithstanding anything to the contrary, such  
15 electric utility shall, beginning on April 30, 2018, and each  
16 April 30 thereafter until April 30, 2026, calculate whether  
17 any reduction must be applied to such cents-per-kilowatthour  
18 charge that is paid by retail customers of the electric  
19 utility that have opted out of subsections (a) through (j) of  
20 Section 8-103B of this Act under subsection (1) of Section  
21 8-103B. Such charge shall be reduced for such customers for  
22 the next delivery year commencing on June 1 based on the amount  
23 necessary, if any, to limit the annual estimated average net  
24 increase for the prior calendar year due to the future energy  
25 investment costs to no more than 1.3% of 5.98 cents per  
26 kilowatt-hour, which is the average amount paid per

1 kilowatthour for electric service during the year ending  
2 December 31, 2015 by Illinois industrial retail customers, as  
3 reported to the Edison Electric Institute.

4 The calculations required by this subsection (m) shall be  
5 made only once for each year, and no subsequent rate impact  
6 determinations shall be made.

7 (2) For purposes of this Section, "future energy  
8 investment costs" shall be calculated by subtracting the  
9 cents-per-kilowatthour charge identified in subparagraph (A)  
10 of this paragraph (2) from the sum of the  
11 cents-per-kilowatthour charges identified in subparagraph (B)  
12 of this paragraph (2):

13 (A) The cents-per-kilowatthour charge identified in  
14 the electric utility's tariff placed into effect under  
15 Section 8-103 of the Public Utilities Act that, on  
16 December 1, 2016, was applicable to those retail customers  
17 that have opted out of subsections (a) through (j) of  
18 Section 8-103B of this Act under subsection (1) of Section  
19 8-103B.

20 (B) The sum of the following cents-per-kilowatthour  
21 charges applicable to those retail customers that have  
22 opted out of subsections (a) through (j) of Section 8-103B  
23 of this Act under subsection (1) of Section 8-103B,  
24 provided that if one or more of the following charges has  
25 been in effect and applied to such customers for more than  
26 one calendar year, then each charge shall be equal to the

1 average of the charges applied over a period that  
2 commences with the calendar year ending December 31, 2017  
3 and ends with the most recently completed calendar year  
4 prior to the calculation required by this subsection (m):

5 (i) the cents-per-kilowatthour charge to recover  
6 the costs incurred by the utility under subsection  
7 (d-5) of Section 1-75 of the Illinois Power Agency  
8 Act, adjusted for any reductions required under this  
9 subsection (m); and

10 (ii) the cents-per-kilowatthour charge to recover  
11 the costs incurred by the utility under Section  
12 16-107.6 of the Public Utilities Act.

13 If no charge was applied for a given calendar year  
14 under item (i) or (ii) of this subparagraph (B), then the  
15 value of the charge for that year shall be zero.

16 (3) If a reduction is required by the calculation  
17 performed under this subsection (m), then the amount of the  
18 reduction shall be multiplied by the number of years reflected  
19 in the averages calculated under subparagraph (B) of paragraph  
20 (2) of this subsection (m). Such reduction shall be applied to  
21 the cents-per-kilowatthour charge that is applicable to those  
22 retail customers that have opted out of subsections (a)  
23 through (j) of Section 8-103B of this Act under subsection (l)  
24 of Section 8-103B beginning with the next delivery year  
25 commencing after the date of the calculation required by this  
26 subsection (m).



1           (4) The electric utility shall file a notice with the  
2 Commission on May 1 of 2018 and each May 1 thereafter until May  
3 1, 2026 containing the reduction, if any, which must be  
4 applied for the delivery year which begins in the year of the  
5 filing. The notice shall contain the calculations made  
6 pursuant to this Section. By October 1 of each year beginning  
7 in 2018, each electric utility shall notify the Commission if  
8 it appears, based on an estimate of the calculation required  
9 in this subsection (m), that a reduction will be required in  
10 the next year.

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

12           (220 ILCS 5/16-111.5)

13           Sec. 16-111.5. Provisions relating to procurement.

14           (a) An electric utility that on December 31, 2005 served  
15 at least 100,000 customers in Illinois shall procure power and  
16 energy for its eligible retail customers in accordance with  
17 the applicable provisions set forth in Section 1-75 of the  
18 Illinois Power Agency Act and this Section. Beginning with the  
19 delivery year commencing on June 1, 2024, an electric utility  
20 serving over 100,000 customers shall also procure energy  
21 storage credits in accordance with the applicable provisions  
22 of Section 1-75 of the Illinois Power Agency Act and this  
23 Section. Beginning with the delivery year commencing on June  
24 1, 2017, such electric utility shall also procure zero  
25 emission credits from zero emission facilities in accordance

1 with the applicable provisions set forth in Section 1-75 of  
2 the Illinois Power Agency Act, and, for years beginning on or  
3 after June 1, 2017, the utility shall procure renewable energy  
4 resources in accordance with the applicable provisions set  
5 forth in Section 1-75 of the Illinois Power Agency Act and this  
6 Section. Beginning with the delivery year commencing on June  
7 1, 2022, an electric utility serving over 3,000,000 customers  
8 shall also procure carbon mitigation credits from carbon-free  
9 energy resources in accordance with the applicable provisions  
10 set forth in Section 1-75 of the Illinois Power Agency Act and  
11 this Section. A small multi-jurisdictional electric utility  
12 that on December 31, 2005 served less than 100,000 customers  
13 in Illinois may elect to procure power and energy for all or a  
14 portion of its eligible Illinois retail customers in  
15 accordance with the applicable provisions set forth in this  
16 Section and Section 1-75 of the Illinois Power Agency Act.  
17 This Section shall not apply to a small multi-jurisdictional  
18 utility until such time as a small multi-jurisdictional  
19 utility requests the Illinois Power Agency to prepare a  
20 procurement plan for its eligible retail customers. "Eligible  
21 retail customers" for the purposes of this Section means those  
22 retail customers that purchase power and energy from the  
23 electric utility under fixed-price bundled service tariffs,  
24 other than those retail customers whose service is declared or  
25 deemed competitive under Section 16-113 and those other  
26 customer groups specified in this Section, including

1 self-generating customers, customers electing hourly pricing,  
2 or those customers who are otherwise ineligible for  
3 fixed-price bundled tariff service. For those customers that  
4 are excluded from the procurement plan's electric supply  
5 service requirements, and the utility shall procure any supply  
6 requirements, including capacity, ancillary services, and  
7 hourly priced energy, in the applicable markets as needed to  
8 serve those customers, provided that the utility may include  
9 in its procurement plan load requirements for the load that is  
10 associated with those retail customers whose service has been  
11 declared or deemed competitive pursuant to Section 16-113 of  
12 this Act to the extent that those customers are purchasing  
13 power and energy during one of the transition periods  
14 identified in subsection (b) of Section 16-113 of this Act.

15 (b) A procurement plan shall be prepared for each electric  
16 utility consistent with the applicable requirements of the  
17 Illinois Power Agency Act and this Section. For purposes of  
18 this Section, Illinois electric utilities that are affiliated  
19 by virtue of a common parent company are considered to be a  
20 single electric utility. Small multi-jurisdictional utilities  
21 may request a procurement plan for a portion of or all of its  
22 Illinois load. Each procurement plan shall analyze the  
23 projected balance of supply and demand for those retail  
24 customers to be included in the plan's electric supply service  
25 requirements over a 5-year period, with the first planning  
26 year beginning on June 1 of the year following the year in

1 which the plan is filed. The plan shall specifically identify  
2 the wholesale products to be procured following plan approval,  
3 and shall follow all the requirements set forth in the Public  
4 Utilities Act and all applicable State and federal laws,  
5 statutes, rules, or regulations, as well as Commission orders.  
6 Nothing in this Section precludes consideration of contracts  
7 longer than 5 years and related forecast data. Unless  
8 specified otherwise in this Section, in the procurement plan  
9 or in the implementing tariff, any procurement occurring in  
10 accordance with this plan shall be competitively bid through a  
11 request for proposals process. Approval and implementation of  
12 the procurement plan shall be subject to review and approval  
13 by the Commission according to the provisions set forth in  
14 this Section. A procurement plan shall include each of the  
15 following components:

16 (1) Hourly load analysis. This analysis shall include:

17 (i) multi-year historical analysis of hourly  
18 loads;

19 (ii) switching trends and competitive retail  
20 market analysis;

21 (iii) known or projected changes to future loads;

22 and

23 (iv) growth forecasts by customer class.

24 (2) Analysis of the impact of any demand side and  
25 renewable energy initiatives. This analysis shall include:

26 (i) the impact of demand response programs and

1 energy efficiency programs, both current and  
2 projected; for small multi-jurisdictional utilities,  
3 the impact of demand response and energy efficiency  
4 programs approved pursuant to Section 8-408 of this  
5 Act, both current and projected; and

6 (ii) supply side needs that are projected to be  
7 offset by purchases of renewable energy resources, if  
8 any.

9 (3) A plan for meeting the expected load requirements  
10 that will not be met through preexisting contracts. This  
11 plan shall include:

12 (i) definitions of the different Illinois retail  
13 customer classes for which supply is being purchased;

14 (ii) the proposed mix of demand-response products  
15 for which contracts will be executed during the next  
16 year. For small multi-jurisdictional electric  
17 utilities that on December 31, 2005 served fewer than  
18 100,000 customers in Illinois, these shall be defined  
19 as demand-response products offered in an energy  
20 efficiency plan approved pursuant to Section 8-408 of  
21 this Act. The cost-effective demand-response measures  
22 shall be procured whenever the cost is lower than  
23 procuring comparable capacity products, provided that  
24 such products shall:

25 (A) be procured by a demand-response provider  
26 from those retail customers included in the plan's

1 electric supply service requirements;

2 (B) at least satisfy the demand-response  
3 requirements of the regional transmission  
4 organization market in which the utility's service  
5 territory is located, including, but not limited  
6 to, any applicable capacity or dispatch  
7 requirements;

8 (C) provide for customers' participation in  
9 the stream of benefits produced by the  
10 demand-response products;

11 (D) provide for reimbursement by the  
12 demand-response provider of the utility for any  
13 costs incurred as a result of the failure of the  
14 supplier of such products to perform its  
15 obligations thereunder; and

16 (E) meet the same credit requirements as apply  
17 to suppliers of capacity, in the applicable  
18 regional transmission organization market;

19 (iii) monthly forecasted system supply  
20 requirements, including expected minimum, maximum, and  
21 average values for the planning period;

22 (iv) the proposed mix and selection of standard  
23 wholesale products for which contracts will be  
24 executed during the next year, separately or in  
25 combination, to meet that portion of its load  
26 requirements not met through pre-existing contracts,

1 including but not limited to monthly 5 x 16 peak period  
2 block energy, monthly off-peak wrap energy, monthly 7  
3 x 24 energy, annual 5 x 16 energy, other standardized  
4 energy or capacity products designed to provide  
5 eligible retail customer benefits from commercially  
6 deployed advanced technologies including but not  
7 limited to high voltage direct current converter  
8 stations, as such term is defined in Section 1-10 of  
9 the Illinois Power Agency Act, whether or not such  
10 product is currently available in wholesale markets,  
11 annual off-peak wrap energy, annual 7 x 24 energy,  
12 monthly capacity, annual capacity, peak load capacity  
13 obligations, capacity purchase plan, and ancillary  
14 services;

15 (v) proposed term structures for each wholesale  
16 product type included in the proposed procurement plan  
17 portfolio of products; and

18 (vi) an assessment of the price risk, load  
19 uncertainty, and other factors that are associated  
20 with the proposed procurement plan; this assessment,  
21 to the extent possible, shall include an analysis of  
22 the following factors: contract terms, time frames for  
23 securing products or services, fuel costs, weather  
24 patterns, transmission costs, market conditions, and  
25 the governmental regulatory environment; the proposed  
26 procurement plan shall also identify alternatives for

1           those portfolio measures that are identified as having  
2           significant price risk and mitigation in the form of  
3           additional retail customer and ratepayer price,  
4           reliability, and environmental benefits from  
5           standardized energy products delivered from  
6           commercially deployed advanced technologies,  
7           including, but not limited to, high voltage direct  
8           current converter stations, as such term is defined in  
9           Section 1-10 of the Illinois Power Agency Act, whether  
10          or not such product is currently available in  
11          wholesale markets.

12          (4) Proposed procedures for balancing loads. The  
13          procurement plan shall include, for load requirements  
14          included in the procurement plan, the process for (i)  
15          hourly balancing of supply and demand and (ii) the  
16          criteria for portfolio re-balancing in the event of  
17          significant shifts in load.

18          (5) Long-Term Renewable Resources Procurement Plan.  
19          The Agency shall prepare a long-term renewable resources  
20          procurement plan for the procurement of renewable energy  
21          credits under Sections 1-56 and 1-75 of the Illinois Power  
22          Agency Act for delivery beginning in the 2017 delivery  
23          year.

24                 (i) The initial long-term renewable resources  
25          procurement plan and all subsequent revisions shall be  
26          subject to review and approval by the Commission. For



1 the purposes of this Section, "delivery year" has the  
2 same meaning as in Section 1-10 of the Illinois Power  
3 Agency Act. For purposes of this Section, "Agency"  
4 shall mean the Illinois Power Agency.

5 (ii) The long-term renewable resources planning  
6 process shall be conducted as follows:

7 (A) Electric utilities shall provide a range  
8 of load forecasts to the Illinois Power Agency  
9 within 45 days of the Agency's request for  
10 forecasts, which request shall specify the length  
11 and conditions for the forecasts including, but  
12 not limited to, the quantity of distributed  
13 generation expected to be interconnected for each  
14 year.

15 (B) The Agency shall publish for comment the  
16 initial long-term renewable resources procurement  
17 plan no later than 120 days after the effective  
18 date of this amendatory Act of the 99th General  
19 Assembly and shall review, and may revise, the  
20 plan at least every 2 years thereafter. To the  
21 extent practicable, the Agency shall review and  
22 propose any revisions to the long-term renewable  
23 energy resources procurement plan in conjunction  
24 with the Agency's other planning and approval  
25 processes conducted under this Section. The  
26 initial long-term renewable resources procurement

1 plan shall:

2 (aa) Identify the procurement programs and  
3 competitive procurement events consistent with  
4 the applicable requirements of the Illinois  
5 Power Agency Act and shall be designed to  
6 achieve the goals set forth in subsection (c)  
7 of Section 1-75 of that Act.

8 (bb) Include a schedule for procurements  
9 for renewable energy credits from  
10 utility-scale wind projects, utility-scale  
11 solar projects, and brownfield site  
12 photovoltaic projects consistent with  
13 subparagraph (G) of paragraph (1) of  
14 subsection (c) of Section 1-75 of the Illinois  
15 Power Agency Act.

16 (cc) Identify the process whereby the  
17 Agency will submit to the Commission for  
18 review and approval the proposed contracts to  
19 implement the programs required by such plan.

20 Copies of the initial long-term renewable  
21 resources procurement plan and all subsequent  
22 revisions shall be posted and made publicly  
23 available on the Agency's and Commission's  
24 websites, and copies shall also be provided to  
25 each affected electric utility. An affected  
26 utility and other interested parties shall have 45

1 days following the date of posting to provide  
2 comment to the Agency on the initial long-term  
3 renewable resources procurement plan and all  
4 subsequent revisions. All comments submitted to  
5 the Agency shall be specific, supported by data or  
6 other detailed analyses, and, if objecting to all  
7 or a portion of the procurement plan, accompanied  
8 by specific alternative wording or proposals. All  
9 comments shall be posted on the Agency's and  
10 Commission's websites. During this 45-day comment  
11 period, the Agency shall hold at least one public  
12 hearing within each utility's service area that is  
13 subject to the requirements of this paragraph (5)  
14 for the purpose of receiving public comment.  
15 Within 21 days following the end of the 45-day  
16 review period, the Agency may revise the long-term  
17 renewable resources procurement plan based on the  
18 comments received and shall file the plan with the  
19 Commission for review and approval.

20 (C) Within 14 days after the filing of the  
21 initial long-term renewable resources procurement  
22 plan or any subsequent revisions, any person  
23 objecting to the plan may file an objection with  
24 the Commission. Within 21 days after the filing of  
25 the plan, the Commission shall determine whether a  
26 hearing is necessary. The Commission shall enter

1 its order confirming or modifying the initial  
2 long-term renewable resources procurement plan or  
3 any subsequent revisions within 120 days after the  
4 filing of the plan by the Illinois Power Agency.

5 (D) The Commission shall approve the initial  
6 long-term renewable resources procurement plan and  
7 any subsequent revisions, including expressly the  
8 forecast used in the plan and taking into account  
9 that funding will be limited to the amount of  
10 revenues actually collected by the utilities, if  
11 the Commission determines that the plan will  
12 reasonably and prudently accomplish the  
13 requirements of Section 1-56 and subsection (c) of  
14 Section 1-75 of the Illinois Power Agency Act. The  
15 Commission shall also approve the process for the  
16 submission, review, and approval of the proposed  
17 contracts to procure renewable energy credits or  
18 implement the programs authorized by the  
19 Commission pursuant to a long-term renewable  
20 resources procurement plan approved under this  
21 Section.

22 In approving any long-term renewable resources  
23 procurement plan after the effective date of this  
24 amendatory Act of the 102nd General Assembly, the  
25 Commission shall approve or modify the Agency's  
26 proposal for minimum equity standards pursuant to

1 subsection (c-10) of Section 1-75 of the Illinois  
2 Power Agency Act. The Commission shall consider  
3 any analysis performed by the Agency in developing  
4 its proposal, including past performance,  
5 availability of equity eligible contractors, and  
6 availability of equity eligible persons at the  
7 time the long-term renewable resources procurement  
8 plan is approved.

9 (iii) The Agency or third parties contracted by  
10 the Agency shall implement all programs authorized by  
11 the Commission in an approved long-term renewable  
12 resources procurement plan without further review and  
13 approval by the Commission. Third parties shall not  
14 begin implementing any programs or receive any payment  
15 under this Section until the Commission has approved  
16 the contract or contracts under the process authorized  
17 by the Commission in item (D) of subparagraph (ii) of  
18 paragraph (5) of this subsection (b) and the third  
19 party and the Agency or utility, as applicable, have  
20 executed the contract. For those renewable energy  
21 credits subject to procurement through a competitive  
22 bid process under the plan or under the initial  
23 forward procurements for wind and solar resources  
24 described in subparagraph (G) of paragraph (1) of  
25 subsection (c) of Section 1-75 of the Illinois Power  
26 Agency Act, the Agency shall follow the procurement

1 process specified in the provisions relating to  
2 electricity procurement in subsections (e) through (i)  
3 of this Section.

4 (iv) An electric utility shall recover its costs  
5 associated with the procurement of renewable energy  
6 credits under this Section and pursuant to subsection  
7 (c-5) of Section 1-75 of the Illinois Power Agency Act  
8 through an automatic adjustment clause tariff under  
9 subsection (k) or a tariff pursuant to subsection  
10 (i-5), as applicable, of Section 16-108 of this Act. A  
11 utility shall not be required to advance any payment  
12 or pay any amounts under this Section that exceed the  
13 actual amount of revenues collected by the utility  
14 under paragraph (6) of subsection (c) of Section 1-75  
15 of the Illinois Power Agency Act, subsection (c-5) of  
16 Section 1-75 of the Illinois Power Agency Act, and  
17 subsection (k) or subsection (i-5), as applicable, of  
18 Section 16-108 of this Act, and contracts executed  
19 under this Section shall expressly incorporate this  
20 limitation.

21 (v) For the public interest, safety, and welfare,  
22 the Agency and the Commission may adopt rules to carry  
23 out the provisions of this Section on an emergency  
24 basis immediately following the effective date of this  
25 amendatory Act of the 99th General Assembly.

26 (vi) On or before July 1 of each year, the

1 Commission shall hold an informal hearing for the  
2 purpose of receiving comments on the prior year's  
3 procurement process and any recommendations for  
4 change.

5 (6) Long-Term Energy Storage Resources Procurement  
6 Plan. The Agency shall prepare an energy storage resources  
7 procurement plan for the procurement of energy storage  
8 credits in compliance with this Section and Section 1-93  
9 of the Illinois Power Agency Act.

10 (i) The initial energy storage resources  
11 procurement plan and all subsequent revisions shall be  
12 subject to review and approval by the Commission. For  
13 purposes of this Section, "delivery year" has the same  
14 meaning as in Section 1-10 of the Illinois Power  
15 Agency Act. For purposes of this Section, "Agency"  
16 shall mean the Illinois Power Agency.

17 (ii) The energy storage resources planning process  
18 shall be conducted as follows:

19 (A) the Agency shall publish for comment the  
20 initial energy storage resources procurement plan  
21 no later than 120 days after the effective date of  
22 this amendatory Act of the 103rd General Assembly  
23 and shall review, and may revise, the plan at  
24 least every 2 years thereafter. To the extent  
25 practicable, the Agency shall review and propose  
26 any revisions to the energy storage resources

1 procurement plan in conjunction with the Agency's  
2 other planning and approval processes conducted  
3 under this Section. The initial energy storage  
4 resources procurement plan shall:

5 (aa) include a schedule for procurements  
6 for energy storage credits from qualified  
7 energy storage systems consistent with Section  
8 1-93 of the Illinois Power Agency Act; and

9 (bb) identify the process whereby the  
10 Agency will submit to the Commission for  
11 review and approval the proposed contracts to  
12 implement the programs required by such plan.  
13 Copies of the initial energy storage resources  
14 procurement plan and all subsequent revisions  
15 shall be posted and made publicly available on  
16 the Agency's and Commission's websites, and  
17 copies shall also be provided to each affected  
18 electric utility. An affected utility and  
19 other interested parties shall have 45 days  
20 following the date of posting to provide  
21 comment to the Agency on the initial energy  
22 storage resources procurement plan and all  
23 subsequent revisions. All comments shall be  
24 posed on the Agency's and Commission's  
25 websites; and

26 (B) the Commission shall approve the initial



1 energy storage resources procurement plan and any  
2 subsequent revisions if the Commission determines  
3 that the plan will reasonably and prudently  
4 accomplish the requirements of Section 1-93 of the  
5 Illinois Power Agency Act. The Commission shall  
6 also approve the process for the submission,  
7 review, and approval of the proposed contracts to  
8 procure energy storage credits or implement the  
9 programs authorized by the Commission pursuant to  
10 a long-term energy storage resources procurement  
11 plan approved under this Section.

12 In approving any long-term energy storage  
13 procurement plan after the effective date of this  
14 amendatory Act of the 103rd General Assembly, the  
15 Commission shall approve or modify the Agency's  
16 proposal for minimum equity standards pursuant to  
17 subsection (c-10) of Section 1-75 of the Illinois  
18 Power Agency Act. The Commission shall consider  
19 any analysis performed by the Agency in developing  
20 its proposal, including past performance,  
21 availability of equity eligible contractors, and  
22 availability of equity eligible persons at the  
23 time the long-term renewable resources procurement  
24 plan is approved.

25 (iii) The Agency or third parties contracted by  
26 the Agency shall implement all programs authorized by

1       the Commission in an approved long-term energy storage  
2       procurement plan without further review and approval  
3       by the Commission. Third parties shall not begin  
4       implementing any programs or receive any payment under  
5       this Section until the Commission has approved the  
6       long-term storage contract.

7               (iv) An electric utility shall recover its costs  
8       associated with the procurement of energy storage  
9       credits under this Section and pursuant to Section  
10       1-93 of the Illinois Power Agency Act through an  
11       automatic adjustment clause tariff under subsection  
12       (k) or a tariff pursuant to subsection (i-5), as  
13       applicable, of Section 16-108.

14       (b-5) An electric utility that as of January 1, 2019  
15       served more than 300,000 retail customers in this State shall  
16       purchase renewable energy credits from new renewable energy  
17       facilities constructed at or adjacent to the sites of  
18       coal-fueled electric generating facilities in this State in  
19       accordance with subsection (c-5) of Section 1-75 of the  
20       Illinois Power Agency Act. Except as expressly provided in  
21       this Section, the plans and procedures for such procurements  
22       shall not be included in the procurement plans provided for in  
23       this Section, but rather shall be conducted and implemented  
24       solely in accordance with subsection (c-5) of Section 1-75 of  
25       the Illinois Power Agency Act.

26       (c) The provisions of this subsection (c) shall not apply

1 to procurements conducted pursuant to subsection (c-5) of  
2 Section 1-75 of the Illinois Power Agency Act. However, the  
3 Agency may retain a procurement administrator to assist the  
4 Agency in planning and carrying out the procurement events and  
5 implementing the other requirements specified in such  
6 subsection (c-5) of Section 1-75 of the Illinois Power Agency  
7 Act, with the costs incurred by the Agency for the procurement  
8 administrator to be recovered through fees charged to  
9 applicants for selection to sell and deliver renewable energy  
10 credits to electric utilities pursuant to subsection (c-5) of  
11 Section 1-75 of the Illinois Power Agency Act. The procurement  
12 process set forth in Section 1-75 of the Illinois Power Agency  
13 Act and subsection (e) of this Section shall be administered  
14 by a procurement administrator and monitored by a procurement  
15 monitor.

16 (1) The procurement administrator shall:

17 (i) design the final procurement process in  
18 accordance with Section 1-75 of the Illinois Power  
19 Agency Act and subsection (e) of this Section  
20 following Commission approval of the procurement plan;

21 (ii) develop benchmarks in accordance with  
22 subsection (e) (3) to be used to evaluate bids; these  
23 benchmarks shall be submitted to the Commission for  
24 review and approval on a confidential basis prior to  
25 the procurement event;

26 (iii) serve as the interface between the electric

1 utility and suppliers;

2 (iv) manage the bidder pre-qualification and  
3 registration process;

4 (v) obtain the electric utilities' agreement to  
5 the final form of all supply contracts and credit  
6 collateral agreements;

7 (vi) administer the request for proposals process;

8 (vii) have the discretion to negotiate to  
9 determine whether bidders are willing to lower the  
10 price of bids that meet the benchmarks approved by the  
11 Commission; any post-bid negotiations with bidders  
12 shall be limited to price only and shall be completed  
13 within 24 hours after opening the sealed bids and  
14 shall be conducted in a fair and unbiased manner; in  
15 conducting the negotiations, there shall be no  
16 disclosure of any information derived from proposals  
17 submitted by competing bidders; if information is  
18 disclosed to any bidder, it shall be provided to all  
19 competing bidders;

20 (viii) maintain confidentiality of supplier and  
21 bidding information in a manner consistent with all  
22 applicable laws, rules, regulations, and tariffs;

23 (ix) submit a confidential report to the  
24 Commission recommending acceptance or rejection of  
25 bids;

26 (x) notify the utility of contract counterparties

1 and contract specifics; and

2 (xi) administer related contingency procurement  
3 events.

4 (2) The procurement monitor, who shall be retained by  
5 the Commission, shall:

6 (i) monitor interactions among the procurement  
7 administrator, suppliers, and utility;

8 (ii) monitor and report to the Commission on the  
9 progress of the procurement process;

10 (iii) provide an independent confidential report  
11 to the Commission regarding the results of the  
12 procurement event;

13 (iv) assess compliance with the procurement plans  
14 approved by the Commission for each utility that on  
15 December 31, 2005 provided electric service to at  
16 least 100,000 customers in Illinois and for each small  
17 multi-jurisdictional utility that on December 31, 2005  
18 served less than 100,000 customers in Illinois;

19 (v) preserve the confidentiality of supplier and  
20 bidding information in a manner consistent with all  
21 applicable laws, rules, regulations, and tariffs;

22 (vi) provide expert advice to the Commission and  
23 consult with the procurement administrator regarding  
24 issues related to procurement process design, rules,  
25 protocols, and policy-related matters; and

26 (vii) consult with the procurement administrator

1           regarding the development and use of benchmark  
2           criteria, standard form contracts, credit policies,  
3           and bid documents.

4           (d) Except as provided in subsection (j), the planning  
5           process shall be conducted as follows:

6                   (1) Beginning in 2008, each Illinois utility procuring  
7                   power pursuant to this Section shall annually provide a  
8                   range of load forecasts to the Illinois Power Agency by  
9                   July 15 of each year, or such other date as may be required  
10                  by the Commission or Agency. The load forecasts shall  
11                  cover the 5-year procurement planning period for the next  
12                  procurement plan and shall include hourly data  
13                  representing a high-load, low-load, and expected-load  
14                  scenario for the load of those retail customers included  
15                  in the plan's electric supply service requirements. The  
16                  utility shall provide supporting data and assumptions for  
17                  each of the scenarios.

18                   (2) Beginning in 2008, the Illinois Power Agency shall  
19                   prepare a procurement plan by August 15th of each year, or  
20                   such other date as may be required by the Commission. The  
21                   procurement plan shall identify the portfolio of  
22                   demand-response and power and energy products to be  
23                   procured. Cost-effective demand-response measures shall be  
24                   procured as set forth in item (iii) of subsection (b) of  
25                   this Section. Copies of the procurement plan shall be  
26                   posted and made publicly available on the Agency's and

1 Commission's websites, and copies shall also be provided  
2 to each affected electric utility. An affected utility  
3 shall have 30 days following the date of posting to  
4 provide comment to the Agency on the procurement plan.  
5 Other interested entities also may comment on the  
6 procurement plan. All comments submitted to the Agency  
7 shall be specific, supported by data or other detailed  
8 analyses, and, if objecting to all or a portion of the  
9 procurement plan, accompanied by specific alternative  
10 wording or proposals. All comments shall be posted on the  
11 Agency's and Commission's websites. During this 30-day  
12 comment period, the Agency shall hold at least one public  
13 hearing within each utility's service area for the purpose  
14 of receiving public comment on the procurement plan.  
15 Within 14 days following the end of the 30-day review  
16 period, the Agency shall revise the procurement plan as  
17 necessary based on the comments received and file the  
18 procurement plan with the Commission and post the  
19 procurement plan on the websites.

20 (3) Within 5 days after the filing of the procurement  
21 plan, any person objecting to the procurement plan shall  
22 file an objection with the Commission. Within 10 days  
23 after the filing, the Commission shall determine whether a  
24 hearing is necessary. The Commission shall enter its order  
25 confirming or modifying the procurement plan within 90  
26 days after the filing of the procurement plan by the

1 Illinois Power Agency.

2 (4) The Commission shall approve the procurement plan,  
3 including expressly the forecast used in the procurement  
4 plan, if the Commission determines that it will ensure  
5 adequate, reliable, affordable, efficient, and  
6 environmentally sustainable electric service at the lowest  
7 total cost over time, taking into account any benefits of  
8 price stability.

9 (4.5) The Commission shall review the Agency's  
10 recommendations for the selection of applicants to enter  
11 into long-term contracts for the sale and delivery of  
12 renewable energy credits from new renewable energy  
13 facilities to be constructed at or adjacent to the sites  
14 of coal-fueled electric generating facilities in this  
15 State in accordance with the provisions of subsection  
16 (c-5) of Section 1-75 of the Illinois Power Agency Act,  
17 and shall approve the Agency's recommendations if the  
18 Commission determines that the applicants recommended by  
19 the Agency for selection, the proposed new renewable  
20 energy facilities to be constructed, the amounts of  
21 renewable energy credits to be delivered pursuant to the  
22 contracts, and the other terms of the contracts, are  
23 consistent with the requirements of subsection (c-5) of  
24 Section 1-75 of the Illinois Power Agency Act.

25 (e) The procurement process shall include each of the  
26 following components:



1           (1) Solicitation, pre-qualification, and registration  
2           of bidders. The procurement administrator shall  
3           disseminate information to potential bidders to promote a  
4           procurement event, notify potential bidders that the  
5           procurement administrator may enter into a post-bid price  
6           negotiation with bidders that meet the applicable  
7           benchmarks, provide supply requirements, and otherwise  
8           explain the competitive procurement process. In addition  
9           to such other publication as the procurement administrator  
10          determines is appropriate, this information shall be  
11          posted on the Illinois Power Agency's and the Commission's  
12          websites. The procurement administrator shall also  
13          administer the prequalification process, including  
14          evaluation of credit worthiness, compliance with  
15          procurement rules, and agreement to the standard form  
16          contract developed pursuant to paragraph (2) of this  
17          subsection (e). The procurement administrator shall then  
18          identify and register bidders to participate in the  
19          procurement event.

20          (2) Standard contract forms and credit terms and  
21          instruments. The procurement administrator, in  
22          consultation with the utilities, the Commission, and other  
23          interested parties and subject to Commission oversight,  
24          shall develop and provide standard contract forms for the  
25          supplier contracts that meet generally accepted industry  
26          practices. Standard credit terms and instruments that meet

1 generally accepted industry practices shall be similarly  
2 developed. The procurement administrator shall make  
3 available to the Commission all written comments it  
4 receives on the contract forms, credit terms, or  
5 instruments. If the procurement administrator cannot reach  
6 agreement with the applicable electric utility as to the  
7 contract terms and conditions, the procurement  
8 administrator must notify the Commission of any disputed  
9 terms and the Commission shall resolve the dispute. The  
10 terms of the contracts shall not be subject to negotiation  
11 by winning bidders, and the bidders must agree to the  
12 terms of the contract in advance so that winning bids are  
13 selected solely on the basis of price.

14 (3) Establishment of a market-based price benchmark.  
15 As part of the development of the procurement process, the  
16 procurement administrator, in consultation with the  
17 Commission staff, Agency staff, and the procurement  
18 monitor, shall establish benchmarks for evaluating the  
19 final prices in the contracts for each of the products  
20 that will be procured through the procurement process. The  
21 benchmarks shall be based on price data for similar  
22 products for the same delivery period and same delivery  
23 hub, or other delivery hubs after adjusting for that  
24 difference. The price benchmarks may also be adjusted to  
25 take into account differences between the information  
26 reflected in the underlying data sources and the specific

1 products and procurement process being used to procure  
2 power for the Illinois utilities. The benchmarks shall be  
3 confidential but shall be provided to, and will be subject  
4 to Commission review and approval, prior to a procurement  
5 event.

6 (4) Request for proposals competitive procurement  
7 process. The procurement administrator shall design and  
8 issue a request for proposals to supply electricity in  
9 accordance with each utility's procurement plan, as  
10 approved by the Commission. The request for proposals  
11 shall set forth a procedure for sealed, binding commitment  
12 bidding with pay-as-bid settlement, and provision for  
13 selection of bids on the basis of price.

14 (5) A plan for implementing contingencies in the event  
15 of supplier default or failure of the procurement process  
16 to fully meet the expected load requirement due to  
17 insufficient supplier participation, Commission rejection  
18 of results, or any other cause.

19 (i) Event of supplier default: In the event of  
20 supplier default, the utility shall review the  
21 contract of the defaulting supplier to determine if  
22 the amount of supply is 200 megawatts or greater, and  
23 if there are more than 60 days remaining of the  
24 contract term. If both of these conditions are met,  
25 and the default results in termination of the  
26 contract, the utility shall immediately notify the

1 Illinois Power Agency that a request for proposals  
2 must be issued to procure replacement power, and the  
3 procurement administrator shall run an additional  
4 procurement event. If the contracted supply of the  
5 defaulting supplier is less than 200 megawatts or  
6 there are less than 60 days remaining of the contract  
7 term, the utility shall procure power and energy from  
8 the applicable regional transmission organization  
9 market, including ancillary services, capacity, and  
10 day-ahead or real time energy, or both, for the  
11 duration of the contract term to replace the  
12 contracted supply; provided, however, that if a needed  
13 product is not available through the regional  
14 transmission organization market it shall be purchased  
15 from the wholesale market.

16 (ii) Failure of the procurement process to fully  
17 meet the expected load requirement: If the procurement  
18 process fails to fully meet the expected load  
19 requirement due to insufficient supplier participation  
20 or due to a Commission rejection of the procurement  
21 results, the procurement administrator, the  
22 procurement monitor, and the Commission staff shall  
23 meet within 10 days to analyze potential causes of low  
24 supplier interest or causes for the Commission  
25 decision. If changes are identified that would likely  
26 result in increased supplier participation, or that

1 would address concerns causing the Commission to  
2 reject the results of the prior procurement event, the  
3 procurement administrator may implement those changes  
4 and rerun the request for proposals process according  
5 to a schedule determined by those parties and  
6 consistent with Section 1-75 of the Illinois Power  
7 Agency Act and this subsection. In any event, a new  
8 request for proposals process shall be implemented by  
9 the procurement administrator within 90 days after the  
10 determination that the procurement process has failed  
11 to fully meet the expected load requirement.

12 (iii) In all cases where there is insufficient  
13 supply provided under contracts awarded through the  
14 procurement process to fully meet the electric  
15 utility's load requirement, the utility shall meet the  
16 load requirement by procuring power and energy from  
17 the applicable regional transmission organization  
18 market, including ancillary services, capacity, and  
19 day-ahead or real time energy, or both; provided,  
20 however, that if a needed product is not available  
21 through the regional transmission organization market  
22 it shall be purchased from the wholesale market.

23 (6) The procurement processes described in this  
24 subsection and in subsection (c-5) of Section 1-75 of the  
25 Illinois Power Agency Act are exempt from the requirements  
26 of the Illinois Procurement Code, pursuant to Section

1           20-10 of that Code.

2           (f) Within 2 business days after opening the sealed bids,  
3 the procurement administrator shall submit a confidential  
4 report to the Commission. The report shall contain the results  
5 of the bidding for each of the products along with the  
6 procurement administrator's recommendation for the acceptance  
7 and rejection of bids based on the price benchmark criteria  
8 and other factors observed in the process. The procurement  
9 monitor also shall submit a confidential report to the  
10 Commission within 2 business days after opening the sealed  
11 bids. The report shall contain the procurement monitor's  
12 assessment of bidder behavior in the process as well as an  
13 assessment of the procurement administrator's compliance with  
14 the procurement process and rules. The Commission shall review  
15 the confidential reports submitted by the procurement  
16 administrator and procurement monitor, and shall accept or  
17 reject the recommendations of the procurement administrator  
18 within 2 business days after receipt of the reports.

19           (g) Within 3 business days after the Commission decision  
20 approving the results of a procurement event, the utility  
21 shall enter into binding contractual arrangements with the  
22 winning suppliers using the standard form contracts; except  
23 that the utility shall not be required either directly or  
24 indirectly to execute the contracts if a tariff that is  
25 consistent with subsection (1) of this Section has not been  
26 approved and placed into effect for that utility.

1 (h) For the procurement of standard wholesale products,  
2 the names of the successful bidders and the load weighted  
3 average of the winning bid prices for each contract type and  
4 for each contract term shall be made available to the public at  
5 the time of Commission approval of a procurement event. For  
6 procurements conducted to meet the requirements of subsection  
7 (b) of Section 1-56 or subsection (c) of Section 1-75 of the  
8 Illinois Power Agency Act governed by the provisions of this  
9 Section, the address and nameplate capacity of the new  
10 renewable energy generating facility proposed by a winning  
11 bidder shall also be made available to the public at the time  
12 of Commission approval of a procurement event, along with the  
13 business address and contact information for any winning  
14 bidder. An estimate or approximation of the nameplate capacity  
15 of the new renewable energy generating facility may be  
16 disclosed if necessary to protect the confidentiality of  
17 individual bid prices.

18 The Commission, the procurement monitor, the procurement  
19 administrator, the Illinois Power Agency, and all participants  
20 in the procurement process shall maintain the confidentiality  
21 of all other supplier and bidding information in a manner  
22 consistent with all applicable laws, rules, regulations, and  
23 tariffs. Confidential information, including the confidential  
24 reports submitted by the procurement administrator and  
25 procurement monitor pursuant to subsection (f) of this  
26 Section, shall not be made publicly available and shall not be

1 discoverable by any party in any proceeding, absent a  
2 compelling demonstration of need, nor shall those reports be  
3 admissible in any proceeding other than one for law  
4 enforcement purposes.

5 (i) Within 2 business days after a Commission decision  
6 approving the results of a procurement event or such other  
7 date as may be required by the Commission from time to time,  
8 the utility shall file for informational purposes with the  
9 Commission its actual or estimated retail supply charges, as  
10 applicable, by customer supply group reflecting the costs  
11 associated with the procurement and computed in accordance  
12 with the tariffs filed pursuant to subsection (l) of this  
13 Section and approved by the Commission.

14 (j) Within 60 days following August 28, 2007 (the  
15 effective date of Public Act 95-481), each electric utility  
16 that on December 31, 2005 provided electric service to at  
17 least 100,000 customers in Illinois shall prepare and file  
18 with the Commission an initial procurement plan, which shall  
19 conform in all material respects to the requirements of the  
20 procurement plan set forth in subsection (b); provided,  
21 however, that the Illinois Power Agency Act shall not apply to  
22 the initial procurement plan prepared pursuant to this  
23 subsection. The initial procurement plan shall identify the  
24 portfolio of power and energy products to be procured and  
25 delivered for the period June 2008 through May 2009, and shall  
26 identify the proposed procurement administrator, who shall



1 have the same experience and expertise as is required of a  
2 procurement administrator hired pursuant to Section 1-75 of  
3 the Illinois Power Agency Act. Copies of the procurement plan  
4 shall be posted and made publicly available on the  
5 Commission's website. The initial procurement plan may include  
6 contracts for renewable resources that extend beyond May 2009.

7 (i) Within 14 days following filing of the initial  
8 procurement plan, any person may file a detailed objection  
9 with the Commission contesting the procurement plan  
10 submitted by the electric utility. All objections to the  
11 electric utility's plan shall be specific, supported by  
12 data or other detailed analyses. The electric utility may  
13 file a response to any objections to its procurement plan  
14 within 7 days after the date objections are due to be  
15 filed. Within 7 days after the date the utility's response  
16 is due, the Commission shall determine whether a hearing  
17 is necessary. If it determines that a hearing is  
18 necessary, it shall require the hearing to be completed  
19 and issue an order on the procurement plan within 60 days  
20 after the filing of the procurement plan by the electric  
21 utility.

22 (ii) The order shall approve or modify the procurement  
23 plan, approve an independent procurement administrator,  
24 and approve or modify the electric utility's tariffs that  
25 are proposed with the initial procurement plan. The  
26 Commission shall approve the procurement plan if the

1 Commission determines that it will ensure adequate,  
2 reliable, affordable, efficient, and environmentally  
3 sustainable electric service at the lowest total cost over  
4 time, taking into account any benefits of price stability.

5 (k) (Blank).

6 (k-5) (Blank).

7 (l) An electric utility shall recover its costs incurred  
8 under this Section and subsection (c-5) of Section 1-75 of the  
9 Illinois Power Agency Act, including, but not limited to, the  
10 costs of procuring power and energy demand-response resources  
11 under this Section and its costs for purchasing renewable  
12 energy credits pursuant to subsection (c-5) of Section 1-75 of  
13 the Illinois Power Agency Act. The utility shall file with the  
14 initial procurement plan its proposed tariffs through which  
15 its costs of procuring power that are incurred pursuant to a  
16 Commission-approved procurement plan and those other costs  
17 identified in this subsection (l), will be recovered. The  
18 tariffs shall include a formula rate or charge designed to  
19 pass through both the costs incurred by the utility in  
20 procuring a supply of electric power and energy for the  
21 applicable customer classes with no mark-up or return on the  
22 price paid by the utility for that supply, plus any just and  
23 reasonable costs that the utility incurs in arranging and  
24 providing for the supply of electric power and energy. The  
25 formula rate or charge shall also contain provisions that  
26 ensure that its application does not result in over or under

1 recovery due to changes in customer usage and demand patterns,  
2 and that provide for the correction, on at least an annual  
3 basis, of any accounting errors that may occur. A utility  
4 shall recover through the tariff all reasonable costs incurred  
5 to implement or comply with any procurement plan that is  
6 developed and put into effect pursuant to Section 1-75 of the  
7 Illinois Power Agency Act and this Section, and for the  
8 procurement of renewable energy credits pursuant to subsection  
9 (c-5) of Section 1-75 of the Illinois Power Agency Act,  
10 including any fees assessed by the Illinois Power Agency,  
11 costs associated with load balancing, and contingency plan  
12 costs. The electric utility shall also recover its full costs  
13 of procuring electric supply for which it contracted before  
14 the effective date of this Section in conjunction with the  
15 provision of full requirements service under fixed-price  
16 bundled service tariffs subsequent to December 31, 2006. All  
17 such costs shall be deemed to have been prudently incurred.  
18 The pass-through tariffs that are filed and approved pursuant  
19 to this Section shall not be subject to review under, or in any  
20 way limited by, Section 16-111(i) of this Act. All of the costs  
21 incurred by the electric utility associated with the purchase  
22 of zero emission credits in accordance with subsection (d-5)  
23 of Section 1-75 of the Illinois Power Agency Act, all costs  
24 incurred by the electric utility associated with the purchase  
25 of carbon mitigation credits in accordance with subsection  
26 (d-10) of Section 1-75 of the Illinois Power Agency Act, and,

1 beginning June 1, 2017, all of the costs incurred by the  
2 electric utility associated with the purchase of renewable  
3 energy resources in accordance with Sections 1-56 and 1-75 of  
4 the Illinois Power Agency Act, and all of the costs incurred by  
5 the electric utility in purchasing renewable energy credits in  
6 accordance with subsection (c-5) of Section 1-75 of the  
7 Illinois Power Agency Act, and all costs incurred by the  
8 electric utility in purchasing energy storage credits in  
9 accordance with Section 1-93 of the Illinois Power Agency Act  
10 shall be recovered through the electric utility's tariffed  
11 charges applicable to all of its retail customers, as  
12 specified in subsection (k) or subsection (i-5), as  
13 applicable, of Section 16-108 of this Act, and shall not be  
14 recovered through the electric utility's tariffed charges for  
15 electric power and energy supply to its eligible retail  
16 customers.

17 (m) The Commission has the authority to adopt rules to  
18 carry out the provisions of this Section. For the public  
19 interest, safety, and welfare, the Commission also has  
20 authority to adopt rules to carry out the provisions of this  
21 Section on an emergency basis immediately following August 28,  
22 2007 (the effective date of Public Act 95-481).

23 (n) Notwithstanding any other provision of this Act, any  
24 affiliated electric utilities that submit a single procurement  
25 plan covering their combined needs may procure for those  
26 combined needs in conjunction with that plan, and may enter

1 jointly into power supply contracts, purchases, and other  
2 procurement arrangements, and allocate capacity and energy and  
3 cost responsibility therefor among themselves in proportion to  
4 their requirements.

5 (o) On or before June 1 of each year, the Commission shall  
6 hold an informal hearing for the purpose of receiving comments  
7 on the prior year's procurement process and any  
8 recommendations for change.

9 (p) An electric utility subject to this Section may  
10 propose to invest, lease, own, or operate an electric  
11 generation facility as part of its procurement plan, provided  
12 the utility demonstrates that such facility is the least-cost  
13 option to provide electric service to those retail customers  
14 included in the plan's electric supply service requirements.  
15 If the facility is shown to be the least-cost option and is  
16 included in a procurement plan prepared in accordance with  
17 Section 1-75 of the Illinois Power Agency Act and this  
18 Section, then the electric utility shall make a filing  
19 pursuant to Section 8-406 of this Act, and may request of the  
20 Commission any statutory relief required thereunder. If the  
21 Commission grants all of the necessary approvals for the  
22 proposed facility, such supply shall thereafter be considered  
23 as a pre-existing contract under subsection (b) of this  
24 Section. The Commission shall in any order approving a  
25 proposal under this subsection specify how the utility will  
26 recover the prudently incurred costs of investing in, leasing,

1 owning, or operating such generation facility through just and  
2 reasonable rates charged to those retail customers included in  
3 the plan's electric supply service requirements. Cost recovery  
4 for facilities included in the utility's procurement plan  
5 pursuant to this subsection shall not be subject to review  
6 under or in any way limited by the provisions of Section  
7 16-111(i) of this Act. Nothing in this Section is intended to  
8 prohibit a utility from filing for a fuel adjustment clause as  
9 is otherwise permitted under Section 9-220 of this Act.

10 (q) If the Illinois Power Agency filed with the  
11 Commission, under Section 16-111.5 of this Act, its proposed  
12 procurement plan for the period commencing June 1, 2017, and  
13 the Commission has not yet entered its final order approving  
14 the plan on or before the effective date of this amendatory Act  
15 of the 99th General Assembly, then the Illinois Power Agency  
16 shall file a notice of withdrawal with the Commission, after  
17 the effective date of this amendatory Act of the 99th General  
18 Assembly, to withdraw the proposed procurement of renewable  
19 energy resources to be approved under the plan, other than the  
20 procurement of renewable energy credits from distributed  
21 renewable energy generation devices using funds previously  
22 collected from electric utilities' retail customers that take  
23 service pursuant to electric utilities' hourly pricing tariff  
24 or tariffs and, for an electric utility that serves less than  
25 100,000 retail customers in the State, other than the  
26 procurement of renewable energy credits from distributed

1 renewable energy generation devices. Upon receipt of the  
2 notice, the Commission shall enter an order that approves the  
3 withdrawal of the proposed procurement of renewable energy  
4 resources from the plan. The initially proposed procurement of  
5 renewable energy resources shall not be approved or be the  
6 subject of any further hearing, investigation, proceeding, or  
7 order of any kind.

8 This amendatory Act of the 99th General Assembly preempts  
9 and supersedes any order entered by the Commission that  
10 approved the Illinois Power Agency's procurement plan for the  
11 period commencing June 1, 2017, to the extent it is  
12 inconsistent with the provisions of this amendatory Act of the  
13 99th General Assembly. To the extent any previously entered  
14 order approved the procurement of renewable energy resources,  
15 the portion of that order approving the procurement shall be  
16 void, other than the procurement of renewable energy credits  
17 from distributed renewable energy generation devices using  
18 funds previously collected from electric utilities' retail  
19 customers that take service under electric utilities' hourly  
20 pricing tariff or tariffs and, for an electric utility that  
21 serves less than 100,000 retail customers in the State, other  
22 than the procurement of renewable energy credits for  
23 distributed renewable energy generation devices.

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

25 Section 99. Effective date. This Act takes effect upon  
26 becoming law.