



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3636

Introduced 2/9/2024, 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 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. Makes other provisions. Defines terms. Makes corresponding changes in the Public Utilities Act. Effective immediately.

LRB103 39306 CES 69460 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 content, unless the clean coal facility does not
5 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 content, and that has a valid and effective permit
5 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 of dams;

20 (2) is interconnected at the distribution system level
21 of an electric utility as defined in this Section, a
22 municipal utility as defined in this Section that owns or
23 operates electric distribution facilities, a public
24 utility as defined in Section 3-105 of the Public
25 Utilities Act, or an electric cooperative, as defined in
26 Section 3-119 of the Public Utilities Act;

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

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

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

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

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

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

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

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

1 required by lenders, and other financing costs, and other
2 expenses for professional services; and

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

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

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

16 "Department" means the Department of Commerce and Economic
17 Opportunity.

18 "Director" means the Director of the Illinois Power
19 Agency.

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

23 "Distributed renewable energy generation device" means a
24 device that is:

25 (1) powered by wind, solar thermal energy,
26 photovoltaic cells or panels, biodiesel, crops and

1 untreated and unadulterated organic waste biomass, tree
2 waste, and hydropower that does not involve new
3 construction of dams, waste heat to power systems, or
4 qualified combined heat and power systems;

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

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

14 (4) (blank).

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

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

26 "Energy storage credit" means a fungible credit that

1 represents the flexibility value of a contracted energy
2 storage system. An energy storage credit is produced for each
3 one megawatt of energy storage capacity multiplied by the
4 energy storage duration each month that the contracted energy
5 storage system is interconnected with wholesale electricity
6 markets.

7 "Energy storage credit counterparty" has the same meaning
8 as "public utility" as defined in Section 3-105 of the Public
9 Utilities Act.

10 "Energy storage credit value" means a price, measured in
11 dollars per credit, calculated for each month for a contracted
12 energy storage system.

13 "Energy storage duration" means the number of hours over
14 which an energy storage system is capable of continuously
15 discharging energy at its full energy storage capacity.

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

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

22 "Equity investment eligible community" or "eligible
23 community" are synonymous and mean the geographic areas
24 throughout Illinois which would most benefit from equitable
25 investments by the State designed to combat discrimination.
26 Specifically, the eligible communities shall be defined as the

1 following areas:

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

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

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

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

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

26 (3) persons who were formerly incarcerated;

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

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

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

12 "Firm energy resource" means electrical resources,
13 including long-duration energy storage and multi-day energy
14 storage, that can individually, or in combination, deliver
15 electricity with guaranteed high availability at rated
16 capacity for the expected duration of multi-day extreme or
17 atypical weather events, including periods of low renewable
18 energy generation, and facilitate integration of eligible
19 renewable energy resources into the electrical grid and the
20 transition to a zero-carbon electrical grid.

21 "General contractor" means the entity or organization with
22 main responsibility for the building of a construction project
23 and who is the party signing the prime construction contract
24 for the project.

25 "Governmental aggregator" means one or more units of local
26 government that individually or collectively procure

1 electricity to serve residential retail electrical loads
2 located within its or their jurisdiction.

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

9 "High voltage direct current renewable energy credit"
10 means a renewable energy credit associated with a renewable
11 energy resource where the renewable energy resource has
12 entered into a contract to transmit the energy associated with
13 such renewable energy credit over high voltage direct current
14 transmission facilities.

15 "High voltage direct current transmission facilities"
16 means the collection of installed equipment that converts
17 alternating current energy in one location to direct current
18 and transmits that direct current energy to a high voltage
19 direct current converter station using Voltage Source
20 Conversion technology. "High voltage direct current
21 transmission facilities" includes the high voltage direct
22 current converter station itself and associated high voltage
23 direct current transmission lines. Notwithstanding the
24 preceding, after September 15, 2021 (the effective date of
25 Public Act 102-662), an otherwise qualifying collection of
26 equipment does not qualify as high voltage direct current

1 transmission facilities unless its developer entered into a
2 project labor agreement, is capable of transmitting
3 electricity at 525kv with an Illinois converter station
4 located and interconnected in the region of the PJM
5 Interconnection, LLC, and the system does not operate as a
6 public utility, as that term is defined in Section 3-105 of the
7 Public Utilities Act.

8 "Hydropower" means any method of electricity generation or
9 storage that results from the flow of water, including
10 impoundment facilities, diversion facilities, and pumped
11 storage facilities.

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

15 "Indexed renewable energy credit" means a tradable credit
16 that represents the environmental attributes of one megawatt
17 hour of energy produced from a renewable energy resource, the
18 price of which shall be calculated by subtracting the strike
19 price offered by a new utility-scale wind project or a new
20 utility-scale photovoltaic project from the index price in a
21 given settlement period.

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

25 "Local government" means a unit of local government as
26 defined in Section 1 of Article VII of the Illinois

1 Constitution.

2 "Long-duration energy storage" means an energy storage
3 system capable of dispatching energy at its full rated
4 capacity for 10 hours or greater.

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

8 "Multi-day energy storage" means an energy storage system
9 capable of dispatching energy at its full rated capacity for
10 greater than 24 hours.

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

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

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

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

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

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

1 a facility.

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

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

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

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

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

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

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

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

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

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

15 "Reference capacity price" means a price, measured in
16 dollars per megawatt-hours, representing the revenue available
17 for a contracted energy storage system through participation
18 in the MISO Planning Resource Auction or the PJM Base Residual
19 Auction, or their successor resource adequacy constructs. The
20 reference capacity price shall be calculated by adjusting the
21 most recent clearing price in the MISO Planning Resource
22 Auction or the PJM Base Residual Action, or their successor
23 resource adequacy constructs, by the accredited capacity of
24 the contracted energy storage system and converting the units
25 to megawatt-hours.

26 "Renewable energy credit" means a tradable credit that

1 represents the environmental attributes of one megawatt hour
2 of energy produced from a renewable energy resource.

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

1 high voltage direct current renewable energy credit.

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

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

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

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

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

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

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

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

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

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

1 "Substitute natural gas" or "SNG" means a gas manufactured
2 by gasification of hydrocarbon feedstock, which is
3 substantially interchangeable in use and distribution with
4 conventional natural gas.

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

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

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

12 (1) generates electricity using photovoltaic cells;
13 and

14 (2) has a nameplate capacity that is greater than
15 5,000 kilowatts.

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

18 (1) generates electricity using wind; and

19 (2) has a nameplate capacity that is greater than
20 5,000 kilowatts.

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

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

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

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

7 (20 ILCS 3855/1-20)

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

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

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

1 plans to include zero emission credits generated from zero
2 emission facilities sufficient to achieve the standards
3 specified in this Act. Beginning with the delivery year
4 commencing on June 1, 2022, the Agency is authorized to
5 develop carbon mitigation credit procurement plans to
6 include carbon mitigation credits generated from
7 carbon-free energy resources sufficient to achieve the
8 standards specified in this Act.

9 (1.5) Develop a long-term renewable resources
10 procurement plan in accordance with subsection (c) of
11 Section 1-75 of this Act for renewable energy credits in
12 amounts sufficient to achieve the standards specified in
13 this Act for delivery years commencing June 1, 2017 and
14 for the programs and renewable energy credits specified in
15 Section 1-56 of this Act. Electricity procurement plans
16 for delivery years commencing after May 31, 2017, shall
17 not include procurement of renewable energy resources.

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

1 procure carbon mitigation credits from carbon-free energy
2 resources, under subsection (d-10) of Section 1-75 of this
3 Act.

4 (2.5) Beginning with the procurement for the 2017
5 delivery year, conduct competitive procurement processes
6 and implement programs to procure renewable energy credits
7 identified in the long-term renewable resources
8 procurement plan developed and approved under subsection
9 (c) of Section 1-75 of this Act and Section 16-111.5 of the
10 Public Utilities Act.

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

19 (2.15) Oversee the procurement by electric utilities
20 of renewable energy credits from newly modernized or
21 retooled hydropower dams or dams that have been converted
22 to support hydropower generation.

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

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

5 (5) Conduct competitive solicitations to procure
6 energy storage credits sufficient to achieve, at minimum,
7 the energy storage standard under Section 1-93 of this
8 Act.

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

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

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

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

20 (4) To obtain and employ personnel and hire
21 consultants that are necessary to fulfill the Agency's
22 purposes, and to make expenditures for that purpose within
23 the appropriations for that purpose.

24 (5) To purchase, receive, take by grant, gift, devise,
25 bequest, or otherwise, lease, or otherwise acquire, own,
26 hold, improve, employ, use, and otherwise deal in and

1 with, real or personal property whether tangible or
2 intangible, or any interest therein, within the State.

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

11 (7) To sell, convey, lease, exchange, transfer,
12 abandon, or otherwise dispose of, or mortgage, pledge, or
13 create a security interest in, any of its assets,
14 properties, or any interest therein, wherever situated.

15 (8) To purchase, take, receive, subscribe for, or
16 otherwise acquire, hold, make a tender offer for, vote,
17 employ, sell, lend, lease, exchange, transfer, or
18 otherwise dispose of, mortgage, pledge, or grant a
19 security interest in, use, and otherwise deal in and with,
20 bonds and other obligations, shares, or other securities
21 (or interests therein) issued by others, whether engaged
22 in a similar or different business or activity.

23 (9) To make and execute agreements, contracts, and
24 other instruments necessary or convenient in the exercise
25 of the powers and functions of the Agency under this Act,
26 including contracts with any person, including personal

1 service contracts, or with any local government, State
2 agency, or other entity; and all State agencies and all
3 local governments are authorized to enter into and do all
4 things necessary to perform any such agreement, contract,
5 or other instrument with the Agency. No such agreement,
6 contract, or other instrument shall exceed 40 years.

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

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

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

22 (13) To procure insurance against any loss in
23 connection with its properties or operations in such
24 amount or amounts and from such insurers, including the
25 federal government, as it may deem necessary or desirable,
26 and to pay any premiums therefor.

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

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

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

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

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

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

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

5 (21) To accept and expend appropriations.

6 (22) To engage in any activity or operation that is
7 incidental to and in furtherance of efficient operation to
8 accomplish the Agency's purposes, including hiring
9 employees that the Director deems essential for the
10 operations of the Agency.

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

17 (24) To establish and collect charges and fees as
18 described in this Act.

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

23 (26) To review, revise, and approve sourcing
24 agreements and mediate and resolve disputes between gas
25 utilities and the clean coal SNG brownfield facility
26 pursuant to subsection (h-1) of Section 9-220 of the

1 Public Utilities Act.

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

8 (28) To ensure Illinois residents and business benefit
9 from programs administered by the Agency and are properly
10 protected from any deceptive or misleading marketing
11 practices by participants in the Agency's programs and
12 procurements.

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

15 (c) In conducting the procurement of electricity or other
16 products, beginning January 1, 2022, the Agency shall not
17 procure any products or services from persons or organizations
18 that are in violation of the Displaced Energy Workers Bill of
19 Rights, as provided under the Energy Community Reinvestment
20 Act at the time of the procurement event or fail to comply the
21 labor standards established in subparagraph (Q) of paragraph
22 (1) of subsection (c) of Section 1-75.

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

24 (20 ILCS 3855/1-93 new)

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

1 (a) The Agency shall develop a storage procurement plan
2 that results in the electric utilities contracting for energy
3 storage credits from contracted energy storage systems in the
4 following amounts:

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

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

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

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

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

17 (c) For all procurements of energy storage credits, the
18 Agency shall procure energy storage credits and direct
19 respondents to offer an energy storage capacity price. The
20 purchase price of the energy storage credit payment shall be
21 calculated for each settlement period. The payment, for any
22 settlement period, shall be equal to the energy storage
23 capacity for that settlement period.

24 (d) All procurements under this Section shall comply with
25 the geographic requirements in subparagraph (I) of paragraph
26 (1) of subsection (c) of Section 1-75 and shall follow the

1 procurement processes and procedures described in this Section
2 and Section 16-111.5 of the Public Utilities Act to the extent
3 practicable, and these processes and procedures may be
4 expedited to accommodate the schedule established by this
5 Section. The Agency shall select bids based solely on the
6 strike price. The winning bidders shall comply with the
7 prevailing wage requirements in subparagraph (Q) of paragraph
8 (1) of subsection (c) of Section 1-75 and equity
9 accountability system requirements in Section (c-10) of
10 Section 1-75.

11 (e) No later than December 31, 2026 and every 2 years
12 thereafter, the Agency shall conduct an analysis to determine
13 whether the contracted quantity of energy storage in energy
14 storage capacity and energy storage duration is sufficient to
15 support the State's renewable energy standards and carbon
16 emission standards. To conduct the analysis, the Agency shall
17 retain an independent consultant with experience in wholesale
18 electric system modeling in PJM and MISO and may seek the
19 support of the federal Department of Energy and National Labs
20 to conduct its analysis. The independent consultant shall
21 utilize a production cost model, capacity expansion model, or
22 similar comprehensive analysis of the electricity systems and
23 shall provide opportunities for stakeholders to provide
24 feedback on the scope, inputs, and assumptions used in the
25 analysis. The Agency is authorized to collect costs for
26 conducting the analysis from electric utilities. The electric

1 utilities are authorized to recover the cost of the analysis
2 as part of the recovery of the cost of energy storage credits,
3 as authorized in this Section and Section 16-108 of the Public
4 Utilities Act. If the Agency determines that the need for
5 energy storage capacity or energy storage duration is greater
6 than the energy storage credit target in this Section, the
7 Agency shall establish and the Commission shall approve new
8 energy storage credit targets to meet the identified need. If
9 the Agency determines that deployment of energy storage beyond
10 2030 will not be achieved through wholesale market prices and
11 other energy storage programs established by the State, the
12 Agency shall establish additional targets for years beyond
13 2030.

14 (20 ILCS 3855/1-94 new)

15 Sec. 1-94. Firm energy resource procurement plan. The
16 Agency is authorized to develop and implement a firm energy
17 resource procurement plan for new resources, including
18 initiating proceedings and conducting competitive
19 solicitations to deploy new long-duration and multi-day energy
20 storage. The procurement plan shall ensure regular procurement
21 opportunities to deploy new long-duration and multi-day energy
22 storage resources by 2030 and shall ensure stable, competitive
23 resource development at a pace needed to ensure grid
24 reliability and resilience during atypical or extreme grid
25 conditions that may occur at least once in 20 years while

1 meeting the emissions requirements of Section 9.15 of the
2 Environmental Protection Act.

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

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

11 Section 10. The Public Utilities Act is amended by
12 changing Sections 16-108 and 16-111.5 as follows:

13 (220 ILCS 5/16-108)

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

16 (a) An electric utility shall file a delivery services
17 tariff with the Commission at least 210 days prior to the date
18 that it is required to begin offering such services pursuant
19 to this Act. An electric utility shall provide the components
20 of delivery services that are subject to the jurisdiction of
21 the Federal Energy Regulatory Commission at the same prices,
22 terms and conditions set forth in its applicable tariff as
23 approved or allowed into effect by that Commission. The
24 Commission shall otherwise have the authority pursuant to

1 Article IX to review, approve, and modify the prices, terms
2 and conditions of those components of delivery services not
3 subject to the jurisdiction of the Federal Energy Regulatory
4 Commission, including the authority to determine the extent to
5 which such delivery services should be offered on an unbundled
6 basis. In making any such determination the Commission shall
7 consider, at a minimum, the effect of additional unbundling on
8 (i) the objective of just and reasonable rates, (ii) electric
9 utility employees, and (iii) the development of competitive
10 markets for electric energy services in Illinois.

11 (b) The Commission shall enter an order approving, or
12 approving as modified, the delivery services tariff no later
13 than 30 days prior to the date on which the electric utility
14 must commence offering such services. The Commission may
15 subsequently modify such tariff pursuant to this Act.

16 (c) The electric utility's tariffs shall define the
17 classes of its customers for purposes of delivery services
18 charges. Delivery services shall be priced and made available
19 to all retail customers electing delivery services in each
20 such class on a nondiscriminatory basis regardless of whether
21 the retail customer chooses the electric utility, an affiliate
22 of the electric utility, or another entity as its supplier of
23 electric power and energy. Charges for delivery services shall
24 be cost based, and shall allow the electric utility to recover
25 the costs of providing delivery services through its charges
26 to its delivery service customers that use the facilities and

1 services associated with such costs. Such costs shall include
2 the costs of owning, operating and maintaining transmission
3 and distribution facilities. The Commission shall also be
4 authorized to consider whether, and if so to what extent, the
5 following costs are appropriately included in the electric
6 utility's delivery services rates: (i) the costs of that
7 portion of generation facilities used for the production and
8 absorption of reactive power in order that retail customers
9 located in the electric utility's service area can receive
10 electric power and energy from suppliers other than the
11 electric utility, and (ii) the costs associated with the use
12 and redispatch of generation facilities to mitigate
13 constraints on the transmission or distribution system in
14 order that retail customers located in the electric utility's
15 service area can receive electric power and energy from
16 suppliers other than the electric utility. Nothing in this
17 subsection shall be construed as directing the Commission to
18 allocate any of the costs described in (i) or (ii) that are
19 found to be appropriately included in the electric utility's
20 delivery services rates to any particular customer group or
21 geographic area in setting delivery services rates.

22 (d) The Commission shall establish charges, terms and
23 conditions for delivery services that are just and reasonable
24 and shall take into account customer impacts when establishing
25 such charges. In establishing charges, terms and conditions
26 for delivery services, the Commission shall take into account

1 voltage level differences. A retail customer shall have the
2 option to request to purchase electric service at any delivery
3 service voltage reasonably and technically feasible from the
4 electric facilities serving that customer's premises provided
5 that there are no significant adverse impacts upon system
6 reliability or system efficiency. A retail customer shall also
7 have the option to request to purchase electric service at any
8 point of delivery that is reasonably and technically feasible
9 provided that there are no significant adverse impacts on
10 system reliability or efficiency. Such requests shall not be
11 unreasonably denied.

12 (e) Electric utilities shall recover the costs of
13 installing, operating or maintaining facilities for the
14 particular benefit of one or more delivery services customers,
15 including without limitation any costs incurred in complying
16 with a customer's request to be served at a different voltage
17 level, directly from the retail customer or customers for
18 whose benefit the costs were incurred, to the extent such
19 costs are not recovered through the charges referred to in
20 subsections (c) and (d) of this Section.

21 (f) An electric utility shall be entitled but not required
22 to implement transition charges in conjunction with the
23 offering of delivery services pursuant to Section 16-104. If
24 an electric utility implements transition charges, it shall
25 implement such charges for all delivery services customers and
26 for all customers described in subsection (h), but shall not

1 implement transition charges for power and energy that a
2 retail customer takes from cogeneration or self-generation
3 facilities located on that retail customer's premises, if such
4 facilities meet the following criteria:

5 (i) the cogeneration or self-generation facilities
6 serve a single retail customer and are located on that
7 retail customer's premises (for purposes of this
8 subparagraph and subparagraph (ii), an industrial or
9 manufacturing retail customer and a third party contractor
10 that is served by such industrial or manufacturing
11 customer through such retail customer's own electrical
12 distribution facilities under the circumstances described
13 in subsection (vi) of the definition of "alternative
14 retail electric supplier" set forth in Section 16-102,
15 shall be considered a single retail customer);

16 (ii) the cogeneration or self-generation facilities
17 either (A) are sized pursuant to generally accepted
18 engineering standards for the retail customer's electrical
19 load at that premises (taking into account standby or
20 other reliability considerations related to that retail
21 customer's operations at that site) or (B) if the facility
22 is a cogeneration facility located on the retail
23 customer's premises, the retail customer is the thermal
24 host for that facility and the facility has been designed
25 to meet that retail customer's thermal energy requirements
26 resulting in electrical output beyond that retail

1 customer's electrical demand at that premises, comply with
2 the operating and efficiency standards applicable to
3 "qualifying facilities" specified in title 18 Code of
4 Federal Regulations Section 292.205 as in effect on the
5 effective date of this amendatory Act of 1999;

6 (iii) the retail customer on whose premises the
7 facilities are located either has an exclusive right to
8 receive, and corresponding obligation to pay for, all of
9 the electrical capacity of the facility, or in the case of
10 a cogeneration facility that has been designed to meet the
11 retail customer's thermal energy requirements at that
12 premises, an identified amount of the electrical capacity
13 of the facility, over a minimum 5-year period; and

14 (iv) if the cogeneration facility is sized for the
15 retail customer's thermal load at that premises but
16 exceeds the electrical load, any sales of excess power or
17 energy are made only at wholesale, are subject to the
18 jurisdiction of the Federal Energy Regulatory Commission,
19 and are not for the purpose of circumventing the
20 provisions of this subsection (f).

21 If a generation facility located at a retail customer's
22 premises does not meet the above criteria, an electric utility
23 implementing transition charges shall implement a transition
24 charge until December 31, 2006 for any power and energy taken
25 by such retail customer from such facility as if such power and
26 energy had been delivered by the electric utility. Provided,

1 however, that an industrial retail customer that is taking
2 power from a generation facility that does not meet the above
3 criteria but that is located on such customer's premises will
4 not be subject to a transition charge for the power and energy
5 taken by such retail customer from such generation facility if
6 the facility does not serve any other retail customer and
7 either was installed on behalf of the customer and for its own
8 use prior to January 1, 1997, or is both predominantly fueled
9 by byproducts of such customer's manufacturing process at such
10 premises and sells or offers an average of 300 megawatts or
11 more of electricity produced from such generation facility
12 into the wholesale market. Such charges shall be calculated as
13 provided in Section 16-102, and shall be collected on each
14 kilowatt-hour delivered under a delivery services tariff to a
15 retail customer from the date the customer first takes
16 delivery services until December 31, 2006 except as provided
17 in subsection (h) of this Section. Provided, however, that an
18 electric utility, other than an electric utility providing
19 service to at least 1,000,000 customers in this State on
20 January 1, 1999, shall be entitled to petition for entry of an
21 order by the Commission authorizing the electric utility to
22 implement transition charges for an additional period ending
23 no later than December 31, 2008. The electric utility shall
24 file its petition with supporting evidence no earlier than 16
25 months, and no later than 12 months, prior to December 31,
26 2006. The Commission shall hold a hearing on the electric

1 utility's petition and shall enter its order no later than 8
2 months after the petition is filed. The Commission shall
3 determine whether and to what extent the electric utility
4 shall be authorized to implement transition charges for an
5 additional period. The Commission may authorize the electric
6 utility to implement transition charges for some or all of the
7 additional period, and shall determine the mitigation factors
8 to be used in implementing such transition charges; provided,
9 that the Commission shall not authorize mitigation factors
10 less than 110% of those in effect during the 12 months ended
11 December 31, 2006. In making its determination, the Commission
12 shall consider the following factors: the necessity to
13 implement transition charges for an additional period in order
14 to maintain the financial integrity of the electric utility;
15 the prudence of the electric utility's actions in reducing its
16 costs since the effective date of this amendatory Act of 1997;
17 the ability of the electric utility to provide safe, adequate
18 and reliable service to retail customers in its service area;
19 and the impact on competition of allowing the electric utility
20 to implement transition charges for the additional period.

21 (g) The electric utility shall file tariffs that establish
22 the transition charges to be paid by each class of customers to
23 the electric utility in conjunction with the provision of
24 delivery services. The electric utility's tariffs shall define
25 the classes of its customers for purposes of calculating
26 transition charges. The electric utility's tariffs shall

1 provide for the calculation of transition charges on a
2 customer-specific basis for any retail customer whose average
3 monthly maximum electrical demand on the electric utility's
4 system during the 6 months with the customer's highest monthly
5 maximum electrical demands equals or exceeds 3.0 megawatts for
6 electric utilities having more than 1,000,000 customers, and
7 for other electric utilities for any customer that has an
8 average monthly maximum electrical demand on the electric
9 utility's system of one megawatt or more, and (A) for which
10 there exists data on the customer's usage during the 3 years
11 preceding the date that the customer became eligible to take
12 delivery services, or (B) for which there does not exist data
13 on the customer's usage during the 3 years preceding the date
14 that the customer became eligible to take delivery services,
15 if in the electric utility's reasonable judgment there exists
16 comparable usage information or a sufficient basis to develop
17 such information, and further provided that the electric
18 utility can require customers for which an individual
19 calculation is made to sign contracts that set forth the
20 transition charges to be paid by the customer to the electric
21 utility pursuant to the tariff.

22 (h) An electric utility shall also be entitled to file
23 tariffs that allow it to collect transition charges from
24 retail customers in the electric utility's service area that
25 do not take delivery services but that take electric power or
26 energy from an alternative retail electric supplier or from an

1 electric utility other than the electric utility in whose
2 service area the customer is located. Such charges shall be
3 calculated, in accordance with the definition of transition
4 charges in Section 16-102, for the period of time that the
5 customer would be obligated to pay transition charges if it
6 were taking delivery services, except that no deduction for
7 delivery services revenues shall be made in such calculation,
8 and usage data from the customer's class shall be used where
9 historical usage data is not available for the individual
10 customer. The customer shall be obligated to pay such charges
11 on a lump sum basis on or before the date on which the customer
12 commences to take service from the alternative retail electric
13 supplier or other electric utility, provided, that the
14 electric utility in whose service area the customer is located
15 shall offer the customer the option of signing a contract
16 pursuant to which the customer pays such charges ratably over
17 the period in which the charges would otherwise have applied.

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

26 (i-5) An electric utility required to impose the Coal to

1 Solar and Energy Storage Initiative Charge provided for in
2 subsection (c-5) of Section 1-75 of the Illinois Power Agency
3 Act shall add such charge to the bills of its delivery services
4 customers pursuant to the terms of a tariff conforming to the
5 requirements of subsection (c-5) of Section 1-75 of the
6 Illinois Power Agency Act and this subsection (i-5) and filed
7 with and approved by the Commission. The electric utility
8 shall file its proposed tariff with the Commission on or
9 before July 1, 2022 to be effective, after review and approval
10 or modification by the Commission, beginning January 1, 2023.
11 On or before December 1, 2022, the Commission shall review the
12 electric utility's proposed tariff, including by conducting a
13 docketed proceeding if deemed necessary by the Commission, and
14 shall approve the proposed tariff or direct the electric
15 utility to make modifications the Commission finds necessary
16 for the tariff to conform to the requirements of subsection
17 (c-5) of Section 1-75 of the Illinois Power Agency Act and this
18 subsection (i-5). The electric utility's tariff shall provide
19 for imposition of the Coal to Solar and Energy Storage
20 Initiative Charge on a per-kilowatthour basis to all
21 kilowatthours delivered by the electric utility to its
22 delivery services customers. The tariff shall provide for the
23 calculation of the Coal to Solar and Energy Storage Initiative
24 Charge to be in effect for the year beginning January 1, 2023
25 and each year beginning January 1 thereafter, sufficient to
26 collect the electric utility's estimated payment obligations

1 for the delivery year beginning the following June 1 under
2 contracts for purchase of renewable energy credits entered
3 into pursuant to subsection (c-5) of Section 1-75 of the
4 Illinois Power Agency Act and the obligations of the
5 Department of Commerce and Economic Opportunity, or any
6 successor department or agency, which for purposes of this
7 subsection (i-5) shall be referred to as the Department, to
8 make grant payments during such delivery year from the Coal to
9 Solar and Energy Storage Initiative Fund pursuant to grant
10 contracts entered into pursuant to subsection (c-5) of Section
11 1-75 of the Illinois Power Agency Act, and using the electric
12 utility's kilowatthour deliveries to its delivery services
13 customers during the delivery year ended May 31 of the
14 preceding calendar year. On or before November 1 of each year
15 beginning November 1, 2022, the Department shall notify the
16 electric utilities of the amount of the Department's estimated
17 obligations for grant payments during the delivery year
18 beginning the following June 1 pursuant to grant contracts
19 entered into pursuant to subsection (c-5) of Section 1-75 of
20 the Illinois Power Agency Act; and each electric utility shall
21 incorporate in the calculation of its Coal to Solar and Energy
22 Storage Initiative Charge the fractional portion of the
23 Department's estimated obligations equal to the electric
24 utility's kilowatthour deliveries to its delivery services
25 customers in the delivery year ended the preceding May 31
26 divided by the aggregate deliveries of both electric utilities

1 to delivery services customers in such delivery year. The
2 electric utility shall remit on a monthly basis to the State
3 Treasurer, for deposit in the Coal to Solar and Energy Storage
4 Initiative Fund provided for in subsection (c-5) of Section
5 1-75 of the Illinois Power Agency Act, the electric utility's
6 collections of the Coal to Solar and Energy Storage Initiative
7 Charge estimated to be needed by the Department for grant
8 payments pursuant to grant contracts entered into pursuant to
9 subsection (c-5) of Section 1-75 of the Illinois Power Agency
10 Act. The initial charge under the electric utility's tariff
11 shall be effective for kilowatthours delivered beginning
12 January 1, 2023, and thereafter shall be revised to be
13 effective January 1, 2024 and each January 1 thereafter, based
14 on the payment obligations for the delivery year beginning the
15 following June 1. The tariff shall provide for the electric
16 utility to make an annual filing with the Commission on or
17 before November 15 of each year, beginning in 2023, setting
18 forth the Coal to Solar and Energy Storage Initiative Charge
19 to be in effect for the year beginning the following January 1.
20 The electric utility's tariff shall also provide that the
21 electric utility shall make a filing with the Commission on or
22 before August 1 of each year beginning in 2024 setting forth a
23 reconciliation, for the delivery year ended the preceding May
24 31, of the electric utility's collections of the Coal to Solar
25 and Energy Storage Initiative Charge against actual payments
26 for renewable energy credits pursuant to contracts entered

1 into, and the actual grant payments by the Department pursuant
2 to grant contracts entered into, pursuant to subsection (c-5)
3 of Section 1-75 of the Illinois Power Agency Act. The tariff
4 shall provide that any excess or shortfall of collections to
5 payments shall be deducted from or added to, on a
6 per-kilowatthour basis, the Coal to Solar and Energy Storage
7 Initiative Charge, over the 6-month period beginning October 1
8 of that calendar year.

9 (j) If a retail customer that obtains electric power and
10 energy from cogeneration or self-generation facilities
11 installed for its own use on or before January 1, 1997,
12 subsequently takes service from an alternative retail electric
13 supplier or an electric utility other than the electric
14 utility in whose service area the customer is located for any
15 portion of the customer's electric power and energy
16 requirements formerly obtained from those facilities
17 (including that amount purchased from the utility in lieu of
18 such generation and not as standby power purchases, under a
19 cogeneration displacement tariff in effect as of the effective
20 date of this amendatory Act of 1997), the transition charges
21 otherwise applicable pursuant to subsections (f), (g), or (h)
22 of this Section shall not be applicable in any year to that
23 portion of the customer's electric power and energy
24 requirements formerly obtained from those facilities,
25 provided, that for purposes of this subsection (j), such
26 portion shall not exceed the average number of kilowatt-hours

1 per year obtained from the cogeneration or self-generation
2 facilities during the 3 years prior to the date on which the
3 customer became eligible for delivery services, except as
4 provided in subsection (f) of Section 16-110.

5 (k) The electric utility shall be entitled to recover
6 through tariffed charges all of the costs associated with the
7 purchase of zero emission credits from zero emission
8 facilities to meet the requirements of subsection (d-5) of
9 Section 1-75 of the Illinois Power Agency Act and all of the
10 costs associated with the purchase of carbon mitigation
11 credits from carbon-free energy resources to meet the
12 requirements of subsection (d-10) of Section 1-75 of the
13 Illinois Power Agency Act. Such costs shall include the costs
14 of procuring the zero emission credits and carbon mitigation
15 credits from carbon-free energy resources, as well as the
16 reasonable costs that the utility incurs as part of the
17 procurement processes and to implement and comply with plans
18 and processes approved by the Commission under subsections
19 (d-5) and (d-10). The costs shall be allocated across all
20 retail customers through a single, uniform cents per
21 kilowatt-hour charge applicable to all retail customers, which
22 shall appear as a separate line item on each customer's bill.
23 Beginning June 1, 2024, the electric utility shall be entitled
24 to recover through tariffed charges all of the costs
25 associated with the purchase of energy storage credits to meet
26 the energy storage standards of Section 1-93 of the Illinois

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

1 proportion to the amount of renewable energy resources the
2 utility procures for such customers through a single, uniform
3 cents per kilowatt-hour charge applicable to such retail
4 customers, which shall appear as a separate line item on each
5 such customer's bill. The credits, costs, and penalties
6 associated with the self-direct renewable portfolio standard
7 compliance program described in subparagraph (R) of paragraph
8 (1) of subsection (c) of Section 1-75 of the Illinois Power
9 Agency Act shall be allocated to approved eligible self-direct
10 customers by the utility in a cents per kilowatt-hour credit,
11 cost, or penalty, which shall appear as a separate line item on
12 each such customer's bill.

13 Notwithstanding whether the Commission has approved the
14 initial long-term renewable resources procurement plan as of
15 June 1, 2017, an electric utility shall place new tariffed
16 charges into effect beginning with the June 2017 monthly
17 billing period, to the extent practicable, to begin recovering
18 the costs of procuring renewable energy resources, as those
19 charges are calculated under the limitations described in
20 subparagraph (E) of paragraph (1) of subsection (c) of Section
21 1-75 of the Illinois Power Agency Act. Notwithstanding the
22 date on which the utility places such new tariffed charges
23 into effect, the utility shall be permitted to collect the
24 charges under such tariff as if the tariff had been in effect
25 beginning with the first day of the June 2017 monthly billing
26 period. For the delivery years commencing June 1, 2017, June

1 1, 2018, June 1, 2019, and each delivery year thereafter, the
2 electric utility shall deposit into a separate interest
3 bearing account of a financial institution the monies
4 collected under the tariffed charges. Money collected from
5 customers for the procurement of renewable energy resources in
6 a given delivery year may be spent by the utility for the
7 procurement of renewable resources over any of the following 5
8 delivery years, after which unspent money shall be credited
9 back to retail customers. The electric utility shall spend all
10 money collected in earlier delivery years that has not yet
11 been returned to customers, first, before spending money
12 collected in later delivery years. Any interest earned shall
13 be credited back to retail customers under the reconciliation
14 proceeding provided for in this subsection (k), provided that
15 the electric utility shall first be reimbursed from the
16 interest for the administrative costs that it incurs to
17 administer and manage the account. Any taxes due on the funds
18 in the account, or interest earned on it, will be paid from the
19 account or, if insufficient monies are available in the
20 account, from the monies collected under the tariffed charges
21 to recover the costs of procuring renewable energy resources.
22 Monies deposited in the account shall be subject to the
23 review, reconciliation, and true-up process described in this
24 subsection (k) that is applicable to the funds collected and
25 costs incurred for the procurement of renewable energy
26 resources.

1 The electric utility shall be entitled to recover all of
2 the costs identified in this subsection (k) through automatic
3 adjustment clause tariffs applicable to all of the utility's
4 retail customers that allow the electric utility to adjust its
5 tariffed charges consistent with this subsection (k). The
6 determination as to whether any excess funds were collected
7 during a given delivery year for the purchase of renewable
8 energy resources, and the crediting of any excess funds back
9 to retail customers, shall not be made until after the close of
10 the delivery year, which will ensure that the maximum amount
11 of funds is available to implement the approved long-term
12 renewable resources procurement plan during a given delivery
13 year. The amount of excess funds eligible to be credited back
14 to retail customers shall be reduced by an amount equal to the
15 payment obligations required by any contracts entered into by
16 an electric utility under contracts described in subsection
17 (b) of Section 1-56 and subsection (c) of Section 1-75 of the
18 Illinois Power Agency Act, even if such payments have not yet
19 been made and regardless of the delivery year in which those
20 payment obligations were incurred. Notwithstanding anything to
21 the contrary, including in tariffs authorized by this
22 subsection (k) in effect before the effective date of this
23 amendatory Act of the 102nd General Assembly, all unspent
24 funds as of May 31, 2021, excluding any funds credited to
25 customers during any utility billing cycle that commences
26 prior to the effective date of this amendatory Act of the 102nd

1 General Assembly, shall remain in the utility account and
2 shall on a first in, first out basis be used toward utility
3 payment obligations under contracts described in subsection
4 (b) of Section 1-56 and subsection (c) of Section 1-75 of the
5 Illinois Power Agency Act. The electric utility's collections
6 under such automatic adjustment clause tariffs to recover the
7 costs of renewable energy resources, zero emission credits
8 from zero emission facilities, and carbon mitigation credits
9 from carbon-free energy resources shall be subject to separate
10 annual review, reconciliation, and true-up against actual
11 costs by the Commission under a procedure that shall be
12 specified in the electric utility's automatic adjustment
13 clause tariffs and that shall be approved by the Commission in
14 connection with its approval of such tariffs. The procedure
15 shall provide that any difference between the electric
16 utility's collections for zero emission credits and carbon
17 mitigation credits under the automatic adjustment charges for
18 an annual period and the electric utility's actual costs of
19 zero emission credits from zero emission facilities and carbon
20 mitigation credits from carbon-free energy resources for that
21 same annual period shall be refunded to or collected from, as
22 applicable, the electric utility's retail customers in
23 subsequent periods.

24 Nothing in this subsection (k) is intended to affect,
25 limit, or change the right of the electric utility to recover
26 the costs associated with the procurement of renewable energy

1 resources for periods commencing before, on, or after June 1,
2 2017, as otherwise provided in the Illinois Power Agency Act.

3 The funding available under this subsection (k), if any,
4 for the programs described under subsection (b) of Section
5 1-56 of the Illinois Power Agency Act shall not reduce the
6 amount of funding for the programs described in subparagraph
7 (O) of paragraph (1) of subsection (c) of Section 1-75 of the
8 Illinois Power Agency Act. If funding is available under this
9 subsection (k) for programs described under subsection (b) of
10 Section 1-56 of the Illinois Power Agency Act, then the
11 long-term renewable resources plan shall provide for the
12 Agency to procure contracts in an amount that does not exceed
13 the funding, and the contracts approved by the Commission
14 shall be executed by the applicable utility or utilities.

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

22 (m)(1) An electric utility that recovers its costs of
23 procuring zero emission credits from zero emission facilities
24 through a cents-per-kilowatthour charge under subsection (k)
25 of this Section shall be subject to the requirements of this
26 subsection (m). Notwithstanding anything to the contrary, such

1 electric utility shall, beginning on April 30, 2018, and each
2 April 30 thereafter until April 30, 2026, calculate whether
3 any reduction must be applied to such cents-per-kilowatthour
4 charge that is paid by retail customers of the electric
5 utility that have opted out of subsections (a) through (j) of
6 Section 8-103B of this Act under subsection (l) of Section
7 8-103B. Such charge shall be reduced for such customers for
8 the next delivery year commencing on June 1 based on the amount
9 necessary, if any, to limit the annual estimated average net
10 increase for the prior calendar year due to the future energy
11 investment costs to no more than 1.3% of 5.98 cents per
12 kilowatt-hour, which is the average amount paid per
13 kilowatthour for electric service during the year ending
14 December 31, 2015 by Illinois industrial retail customers, as
15 reported to the Edison Electric Institute.

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

19 (2) For purposes of this Section, "future energy
20 investment costs" shall be calculated by subtracting the
21 cents-per-kilowatthour charge identified in subparagraph (A)
22 of this paragraph (2) from the sum of the
23 cents-per-kilowatthour charges identified in subparagraph (B)
24 of this paragraph (2):

25 (A) The cents-per-kilowatthour charge identified in
26 the electric utility's tariff placed into effect under

1 Section 8-103 of the Public Utilities Act that, on
2 December 1, 2016, was applicable to those retail customers
3 that have opted out of subsections (a) through (j) of
4 Section 8-103B of this Act under subsection (l) of Section
5 8-103B.

6 (B) The sum of the following cents-per-kilowatthour
7 charges applicable to those retail customers that have
8 opted out of subsections (a) through (j) of Section 8-103B
9 of this Act under subsection (l) of Section 8-103B,
10 provided that if one or more of the following charges has
11 been in effect and applied to such customers for more than
12 one calendar year, then each charge shall be equal to the
13 average of the charges applied over a period that
14 commences with the calendar year ending December 31, 2017
15 and ends with the most recently completed calendar year
16 prior to the calculation required by this subsection (m):

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

22 (ii) the cents-per-kilowatthour charge to recover
23 the costs incurred by the utility under Section
24 16-107.6 of the Public Utilities Act.

25 If no charge was applied for a given calendar year
26 under item (i) or (ii) of this subparagraph (B), then the

1 value of the charge for that year shall be zero.

2 (3) If a reduction is required by the calculation
3 performed under this subsection (m), then the amount of the
4 reduction shall be multiplied by the number of years reflected
5 in the averages calculated under subparagraph (B) of paragraph
6 (2) of this subsection (m). Such reduction shall be applied to
7 the cents-per-kilowatthour charge that is applicable to those
8 retail customers that have opted out of subsections (a)
9 through (j) of Section 8-103B of this Act under subsection (l)
10 of Section 8-103B beginning with the next delivery year
11 commencing after the date of the calculation required by this
12 subsection (m).

13 (4) The electric utility shall file a notice with the
14 Commission on May 1 of 2018 and each May 1 thereafter until May
15 1, 2026 containing the reduction, if any, which must be
16 applied for the delivery year which begins in the year of the
17 filing. The notice shall contain the calculations made
18 pursuant to this Section. By October 1 of each year beginning
19 in 2018, each electric utility shall notify the Commission if
20 it appears, based on an estimate of the calculation required
21 in this subsection (m), that a reduction will be required in
22 the next year.

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

24 (220 ILCS 5/16-111.5)

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

1 (a) An electric utility that on December 31, 2005 served
2 at least 100,000 customers in Illinois shall procure power and
3 energy for its eligible retail customers in accordance with
4 the applicable provisions set forth in Section 1-75 of the
5 Illinois Power Agency Act and this Section. Beginning with the
6 delivery year commencing on June 1, 2024, an electric utility
7 serving over 100,000 customers shall also procure energy
8 storage credits in accordance with the applicable provisions
9 of Section 1-75 of the Illinois Power Agency Act and this
10 Section. Beginning with the delivery year commencing on June
11 1, 2017, such electric utility shall also procure zero
12 emission credits from zero emission facilities in accordance
13 with the applicable provisions set forth in Section 1-75 of
14 the Illinois Power Agency Act, and, for years beginning on or
15 after June 1, 2017, the utility shall procure renewable energy
16 resources in accordance with the applicable provisions set
17 forth in Section 1-75 of the Illinois Power Agency Act and this
18 Section. Beginning with the delivery year commencing on June
19 1, 2022, an electric utility serving over 3,000,000 customers
20 shall also procure carbon mitigation credits from carbon-free
21 energy resources in accordance with the applicable provisions
22 set forth in Section 1-75 of the Illinois Power Agency Act and
23 this Section. A small multi-jurisdictional electric utility
24 that on December 31, 2005 served less than 100,000 customers
25 in Illinois may elect to procure power and energy for all or a
26 portion of its eligible Illinois retail customers in

1 accordance with the applicable provisions set forth in this
2 Section and Section 1-75 of the Illinois Power Agency Act.
3 This Section shall not apply to a small multi-jurisdictional
4 utility until such time as a small multi-jurisdictional
5 utility requests the Illinois Power Agency to prepare a
6 procurement plan for its eligible retail customers. "Eligible
7 retail customers" for the purposes of this Section means those
8 retail customers that purchase power and energy from the
9 electric utility under fixed-price bundled service tariffs,
10 other than those retail customers whose service is declared or
11 deemed competitive under Section 16-113 and those other
12 customer groups specified in this Section, including
13 self-generating customers, customers electing hourly pricing,
14 or those customers who are otherwise ineligible for
15 fixed-price bundled tariff service. For those customers that
16 are excluded from the procurement plan's electric supply
17 service requirements, and the utility shall procure any supply
18 requirements, including capacity, ancillary services, and
19 hourly priced energy, in the applicable markets as needed to
20 serve those customers, provided that the utility may include
21 in its procurement plan load requirements for the load that is
22 associated with those retail customers whose service has been
23 declared or deemed competitive pursuant to Section 16-113 of
24 this Act to the extent that those customers are purchasing
25 power and energy during one of the transition periods
26 identified in subsection (b) of Section 16-113 of this Act.

1 (b) A procurement plan shall be prepared for each electric
2 utility consistent with the applicable requirements of the
3 Illinois Power Agency Act and this Section. For purposes of
4 this Section, Illinois electric utilities that are affiliated
5 by virtue of a common parent company are considered to be a
6 single electric utility. Small multi-jurisdictional utilities
7 may request a procurement plan for a portion of or all of its
8 Illinois load. Each procurement plan shall analyze the
9 projected balance of supply and demand for those retail
10 customers to be included in the plan's electric supply service
11 requirements over a 5-year period, with the first planning
12 year beginning on June 1 of the year following the year in
13 which the plan is filed. The plan shall specifically identify
14 the wholesale products to be procured following plan approval,
15 and shall follow all the requirements set forth in the Public
16 Utilities Act and all applicable State and federal laws,
17 statutes, rules, or regulations, as well as Commission orders.
18 Nothing in this Section precludes consideration of contracts
19 longer than 5 years and related forecast data. Unless
20 specified otherwise in this Section, in the procurement plan
21 or in the implementing tariff, any procurement occurring in
22 accordance with this plan shall be competitively bid through a
23 request for proposals process. Approval and implementation of
24 the procurement plan shall be subject to review and approval
25 by the Commission according to the provisions set forth in
26 this Section. A procurement plan shall include each of the

1 following components:

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

3 (i) multi-year historical analysis of hourly
4 loads;

5 (ii) switching trends and competitive retail
6 market analysis;

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

8 and

9 (iv) growth forecasts by customer class.

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

12 (i) the impact of demand response programs and
13 energy efficiency programs, both current and
14 projected; for small multi-jurisdictional utilities,
15 the impact of demand response and energy efficiency
16 programs approved pursuant to Section 8-408 of this
17 Act, both current and projected; and

18 (ii) supply side needs that are projected to be
19 offset by purchases of renewable energy resources, if
20 any.

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

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

26 (ii) the proposed mix of demand-response products

1 for which contracts will be executed during the next
2 year. For small multi-jurisdictional electric
3 utilities that on December 31, 2005 served fewer than
4 100,000 customers in Illinois, these shall be defined
5 as demand-response products offered in an energy
6 efficiency plan approved pursuant to Section 8-408 of
7 this Act. The cost-effective demand-response measures
8 shall be procured whenever the cost is lower than
9 procuring comparable capacity products, provided that
10 such products shall:

11 (A) be procured by a demand-response provider
12 from those retail customers included in the plan's
13 electric supply service requirements;

14 (B) at least satisfy the demand-response
15 requirements of the regional transmission
16 organization market in which the utility's service
17 territory is located, including, but not limited
18 to, any applicable capacity or dispatch
19 requirements;

20 (C) provide for customers' participation in
21 the stream of benefits produced by the
22 demand-response products;

23 (D) provide for reimbursement by the
24 demand-response provider of the utility for any
25 costs incurred as a result of the failure of the
26 supplier of such products to perform its

1 obligations thereunder; and

2 (E) meet the same credit requirements as apply
3 to suppliers of capacity, in the applicable
4 regional transmission organization market;

5 (iii) monthly forecasted system supply
6 requirements, including expected minimum, maximum, and
7 average values for the planning period;

8 (iv) the proposed mix and selection of standard
9 wholesale products for which contracts will be
10 executed during the next year, separately or in
11 combination, to meet that portion of its load
12 requirements not met through pre-existing contracts,
13 including but not limited to monthly 5 x 16 peak period
14 block energy, monthly off-peak wrap energy, monthly 7
15 x 24 energy, annual 5 x 16 energy, other standardized
16 energy or capacity products designed to provide
17 eligible retail customer benefits from commercially
18 deployed advanced technologies including but not
19 limited to high voltage direct current converter
20 stations, as such term is defined in Section 1-10 of
21 the Illinois Power Agency Act, whether or not such
22 product is currently available in wholesale markets,
23 annual off-peak wrap energy, annual 7 x 24 energy,
24 monthly capacity, annual capacity, peak load capacity
25 obligations, capacity purchase plan, and ancillary
26 services;

1 (v) proposed term structures for each wholesale
2 product type included in the proposed procurement plan
3 portfolio of products; and

4 (vi) an assessment of the price risk, load
5 uncertainty, and other factors that are associated
6 with the proposed procurement plan; this assessment,
7 to the extent possible, shall include an analysis of
8 the following factors: contract terms, time frames for
9 securing products or services, fuel costs, weather
10 patterns, transmission costs, market conditions, and
11 the governmental regulatory environment; the proposed
12 procurement plan shall also identify alternatives for
13 those portfolio measures that are identified as having
14 significant price risk and mitigation in the form of
15 additional retail customer and ratepayer price,
16 reliability, and environmental benefits from
17 standardized energy products delivered from
18 commercially deployed advanced technologies,
19 including, but not limited to, high voltage direct
20 current converter stations, as such term is defined in
21 Section 1-10 of the Illinois Power Agency Act, whether
22 or not such product is currently available in
23 wholesale markets.

24 (4) Proposed procedures for balancing loads. The
25 procurement plan shall include, for load requirements
26 included in the procurement plan, the process for (i)

1 hourly balancing of supply and demand and (ii) the
2 criteria for portfolio re-balancing in the event of
3 significant shifts in load.

4 (5) Long-Term Renewable Resources Procurement Plan.
5 The Agency shall prepare a long-term renewable resources
6 procurement plan for the procurement of renewable energy
7 credits under Sections 1-56 and 1-75 of the Illinois Power
8 Agency Act for delivery beginning in the 2017 delivery
9 year.

10 (i) The initial long-term renewable resources
11 procurement plan and all subsequent revisions shall be
12 subject to review and approval by the Commission. For
13 the purposes of this Section, "delivery year" has the
14 same 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 long-term renewable resources planning
18 process shall be conducted as follows:

19 (A) Electric utilities shall provide a range
20 of load forecasts to the Illinois Power Agency
21 within 45 days of the Agency's request for
22 forecasts, which request shall specify the length
23 and conditions for the forecasts including, but
24 not limited to, the quantity of distributed
25 generation expected to be interconnected for each
26 year.

1 (B) The Agency shall publish for comment the
2 initial long-term renewable resources procurement
3 plan no later than 120 days after the effective
4 date of this amendatory Act of the 99th General
5 Assembly and shall review, and may revise, the
6 plan at least every 2 years thereafter. To the
7 extent practicable, the Agency shall review and
8 propose any revisions to the long-term renewable
9 energy resources procurement plan in conjunction
10 with the Agency's other planning and approval
11 processes conducted under this Section. The
12 initial long-term renewable resources procurement
13 plan shall:

14 (aa) Identify the procurement programs and
15 competitive procurement events consistent with
16 the applicable requirements of the Illinois
17 Power Agency Act and shall be designed to
18 achieve the goals set forth in subsection (c)
19 of Section 1-75 of that Act.

20 (bb) Include a schedule for procurements
21 for renewable energy credits from
22 utility-scale wind projects, utility-scale
23 solar projects, and brownfield site
24 photovoltaic projects consistent with
25 subparagraph (G) of paragraph (1) of
26 subsection (c) of Section 1-75 of the Illinois

1 Power Agency Act.

2 (cc) Identify the process whereby the
3 Agency will submit to the Commission for
4 review and approval the proposed contracts to
5 implement the programs required by such plan.

6 Copies of the initial long-term renewable
7 resources procurement plan and all subsequent
8 revisions shall be posted and made publicly
9 available on the Agency's and Commission's
10 websites, and copies shall also be provided to
11 each affected electric utility. An affected
12 utility and other interested parties shall have 45
13 days following the date of posting to provide
14 comment to the Agency on the initial long-term
15 renewable resources procurement plan and all
16 subsequent revisions. All comments submitted to
17 the Agency shall be specific, supported by data or
18 other detailed analyses, and, if objecting to all
19 or a portion of the procurement plan, accompanied
20 by specific alternative wording or proposals. All
21 comments shall be posted on the Agency's and
22 Commission's websites. During this 45-day comment
23 period, the Agency shall hold at least one public
24 hearing within each utility's service area that is
25 subject to the requirements of this paragraph (5)
26 for the purpose of receiving public comment.

1 Within 21 days following the end of the 45-day
2 review period, the Agency may revise the long-term
3 renewable resources procurement plan based on the
4 comments received and shall file the plan with the
5 Commission for review and approval.

6 (C) Within 14 days after the filing of the
7 initial long-term renewable resources procurement
8 plan or any subsequent revisions, any person
9 objecting to the plan may file an objection with
10 the Commission. Within 21 days after the filing of
11 the plan, the Commission shall determine whether a
12 hearing is necessary. The Commission shall enter
13 its order confirming or modifying the initial
14 long-term renewable resources procurement plan or
15 any subsequent revisions within 120 days after the
16 filing of the plan by the Illinois Power Agency.

17 (D) The Commission shall approve the initial
18 long-term renewable resources procurement plan and
19 any subsequent revisions, including expressly the
20 forecast used in the plan and taking into account
21 that funding will be limited to the amount of
22 revenues actually collected by the utilities, if
23 the Commission determines that the plan will
24 reasonably and prudently accomplish the
25 requirements of Section 1-56 and subsection (c) of
26 Section 1-75 of the Illinois Power Agency Act. The

1 Commission shall also approve the process for the
2 submission, review, and approval of the proposed
3 contracts to procure renewable energy credits or
4 implement the programs authorized by the
5 Commission pursuant to a long-term renewable
6 resources procurement plan approved under this
7 Section.

8 In approving any long-term renewable resources
9 procurement plan after the effective date of this
10 amendatory Act of the 102nd General Assembly, the
11 Commission shall approve or modify the Agency's
12 proposal for minimum equity standards pursuant to
13 subsection (c-10) of Section 1-75 of the Illinois
14 Power Agency Act. The Commission shall consider
15 any analysis performed by the Agency in developing
16 its proposal, including past performance,
17 availability of equity eligible contractors, and
18 availability of equity eligible persons at the
19 time the long-term renewable resources procurement
20 plan is approved.

21 (iii) The Agency or third parties contracted by
22 the Agency shall implement all programs authorized by
23 the Commission in an approved long-term renewable
24 resources procurement plan without further review and
25 approval by the Commission. Third parties shall not
26 begin implementing any programs or receive any payment

1 under this Section until the Commission has approved
2 the contract or contracts under the process authorized
3 by the Commission in item (D) of subparagraph (ii) of
4 paragraph (5) of this subsection (b) and the third
5 party and the Agency or utility, as applicable, have
6 executed the contract. For those renewable energy
7 credits subject to procurement through a competitive
8 bid process under the plan or under the initial
9 forward procurements for wind and solar resources
10 described in subparagraph (G) of paragraph (1) of
11 subsection (c) of Section 1-75 of the Illinois Power
12 Agency Act, the Agency shall follow the procurement
13 process specified in the provisions relating to
14 electricity procurement in subsections (e) through (i)
15 of this Section.

16 (iv) An electric utility shall recover its costs
17 associated with the procurement of renewable energy
18 credits under this Section and pursuant to subsection
19 (c-5) of Section 1-75 of the Illinois Power Agency Act
20 through an automatic adjustment clause tariff under
21 subsection (k) or a tariff pursuant to subsection
22 (i-5), as applicable, of Section 16-108 of this Act. A
23 utility shall not be required to advance any payment
24 or pay any amounts under this Section that exceed the
25 actual amount of revenues collected by the utility
26 under paragraph (6) of subsection (c) of Section 1-75

1 of the Illinois Power Agency Act, subsection (c-5) of
2 Section 1-75 of the Illinois Power Agency Act, and
3 subsection (k) or subsection (i-5), as applicable, of
4 Section 16-108 of this Act, and contracts executed
5 under this Section shall expressly incorporate this
6 limitation.

7 (v) For the public interest, safety, and welfare,
8 the Agency and the Commission may adopt rules to carry
9 out the provisions of this Section on an emergency
10 basis immediately following the effective date of this
11 amendatory Act of the 99th General Assembly.

12 (vi) On or before July 1 of each year, the
13 Commission shall hold an informal hearing for the
14 purpose of receiving comments on the prior year's
15 procurement process and any recommendations for
16 change.

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

22 (i) The initial energy storage resources
23 procurement plan and all subsequent revisions shall be
24 subject to review and approval by the Commission. For
25 purposes of this Section, "delivery year" has the same
26 meaning as in Section 1-10 of the Illinois Power

1 Agency Act. For purposes of this Section, "Agency"
2 shall mean the Illinois Power Agency.

3 (ii) The energy storage resources planning process
4 shall be conducted as follows:

5 (A) the Agency shall publish for comment the
6 initial energy storage resources procurement plan
7 no later than 120 days after the effective date of
8 this amendatory Act of the 103rd General Assembly
9 and shall review, and may revise, the plan at
10 least every 2 years thereafter. To the extent
11 practicable, the Agency shall review and propose
12 any revisions to the energy storage resources
13 procurement plan in conjunction with the Agency's
14 other planning and approval processes conducted
15 under this Section. The initial energy storage
16 resources procurement plan shall:

17 (aa) include a schedule for procurements
18 for energy storage credits from qualified
19 energy storage systems consistent with Section
20 1-93 of the Illinois Power Agency Act; and

21 (bb) identify the process whereby the
22 Agency will submit to the Commission for
23 review and approval the proposed contracts to
24 implement the programs required by such plan.
25 Copies of the initial energy storage resources
26 procurement plan and all subsequent revisions

1 shall be posted and made publicly available on
2 the Agency's and Commission's websites, and
3 copies shall also be provided to each affected
4 electric utility. An affected utility and
5 other interested parties shall have 45 days
6 following the date of posting to provide
7 comment to the Agency on the initial energy
8 storage resources procurement plan and all
9 subsequent revisions. All comments shall be
10 posed on the Agency's and Commission's
11 websites; and

12 (B) the Commission shall approve the initial
13 energy storage resources procurement plan and any
14 subsequent revisions if the Commission determines
15 that the plan will reasonably and prudently
16 accomplish the requirements of Section 1-93 of the
17 Illinois Power Agency Act. The Commission shall
18 also approve the process for the submission,
19 review, and approval of the proposed contracts to
20 procure energy storage credits or implement the
21 programs authorized by the Commission pursuant to
22 a long-term energy storage resources procurement
23 plan approved under this Section.

24 In approving any long-term energy storage
25 procurement plan after the effective date of this
26 amendatory Act of the 103rd General Assembly, the

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

11 (iii) The Agency or third parties contracted by
12 the Agency shall implement all programs authorized by
13 the Commission in an approved long-term energy storage
14 procurement plan without further review and approval
15 by the Commission. Third parties shall not begin
16 implementing any programs or receive any payment under
17 this Section until the Commission has approved the
18 long-term storage contract.

19 (iv) An electric utility shall recover its costs
20 associated with the procurement of energy storage
21 credits under this Section and pursuant to Section
22 1-93 of the Illinois Power Agency Act through an
23 automatic adjustment clause tariff under subsection
24 (k) or a tariff pursuant to subsection (i-5), as
25 applicable, of Section 16-108.

26 (b-5) An electric utility that as of January 1, 2019

1 served more than 300,000 retail customers in this State shall
2 purchase renewable energy credits from new renewable energy
3 facilities constructed at or adjacent to the sites of
4 coal-fueled electric generating facilities in this State in
5 accordance with subsection (c-5) of Section 1-75 of the
6 Illinois Power Agency Act. Except as expressly provided in
7 this Section, the plans and procedures for such procurements
8 shall not be included in the procurement plans provided for in
9 this Section, but rather shall be conducted and implemented
10 solely in accordance with subsection (c-5) of Section 1-75 of
11 the Illinois Power Agency Act.

12 (c) The provisions of this subsection (c) shall not apply
13 to procurements conducted pursuant to subsection (c-5) of
14 Section 1-75 of the Illinois Power Agency Act. However, the
15 Agency may retain a procurement administrator to assist the
16 Agency in planning and carrying out the procurement events and
17 implementing the other requirements specified in such
18 subsection (c-5) of Section 1-75 of the Illinois Power Agency
19 Act, with the costs incurred by the Agency for the procurement
20 administrator to be recovered through fees charged to
21 applicants for selection to sell and deliver renewable energy
22 credits to electric utilities pursuant to subsection (c-5) of
23 Section 1-75 of the Illinois Power Agency Act. The procurement
24 process set forth in Section 1-75 of the Illinois Power Agency
25 Act and subsection (e) of this Section shall be administered
26 by a procurement administrator and monitored by a procurement

1 monitor.

2 (1) The procurement administrator shall:

3 (i) design the final procurement process in
4 accordance with Section 1-75 of the Illinois Power
5 Agency Act and subsection (e) of this Section
6 following Commission approval of the procurement plan;

7 (ii) develop benchmarks in accordance with
8 subsection (e)(3) to be used to evaluate bids; these
9 benchmarks shall be submitted to the Commission for
10 review and approval on a confidential basis prior to
11 the procurement event;

12 (iii) serve as the interface between the electric
13 utility and suppliers;

14 (iv) manage the bidder pre-qualification and
15 registration process;

16 (v) obtain the electric utilities' agreement to
17 the final form of all supply contracts and credit
18 collateral agreements;

19 (vi) administer the request for proposals process;

20 (vii) have the discretion to negotiate to
21 determine whether bidders are willing to lower the
22 price of bids that meet the benchmarks approved by the
23 Commission; any post-bid negotiations with bidders
24 shall be limited to price only and shall be completed
25 within 24 hours after opening the sealed bids and
26 shall be conducted in a fair and unbiased manner; in

1 conducting the negotiations, there shall be no
2 disclosure of any information derived from proposals
3 submitted by competing bidders; if information is
4 disclosed to any bidder, it shall be provided to all
5 competing bidders;

6 (viii) maintain confidentiality of supplier and
7 bidding information in a manner consistent with all
8 applicable laws, rules, regulations, and tariffs;

9 (ix) submit a confidential report to the
10 Commission recommending acceptance or rejection of
11 bids;

12 (x) notify the utility of contract counterparties
13 and contract specifics; and

14 (xi) administer related contingency procurement
15 events.

16 (2) The procurement monitor, who shall be retained by
17 the Commission, shall:

18 (i) monitor interactions among the procurement
19 administrator, suppliers, and utility;

20 (ii) monitor and report to the Commission on the
21 progress of the procurement process;

22 (iii) provide an independent confidential report
23 to the Commission regarding the results of the
24 procurement event;

25 (iv) assess compliance with the procurement plans
26 approved by the Commission for each utility that on

1 December 31, 2005 provided electric service to at
2 least 100,000 customers in Illinois and for each small
3 multi-jurisdictional utility that on December 31, 2005
4 served less than 100,000 customers in Illinois;

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

8 (vi) provide expert advice to the Commission and
9 consult with the procurement administrator regarding
10 issues related to procurement process design, rules,
11 protocols, and policy-related matters; and

12 (vii) consult with the procurement administrator
13 regarding the development and use of benchmark
14 criteria, standard form contracts, credit policies,
15 and bid documents.

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

18 (1) Beginning in 2008, each Illinois utility procuring
19 power pursuant to this Section shall annually provide a
20 range of load forecasts to the Illinois Power Agency by
21 July 15 of each year, or such other date as may be required
22 by the Commission or Agency. The load forecasts shall
23 cover the 5-year procurement planning period for the next
24 procurement plan and shall include hourly data
25 representing a high-load, low-load, and expected-load
26 scenario for the load of those retail customers included

1 in the plan's electric supply service requirements. The
2 utility shall provide supporting data and assumptions for
3 each of the scenarios.

4 (2) Beginning in 2008, the Illinois Power Agency shall
5 prepare a procurement plan by August 15th of each year, or
6 such other date as may be required by the Commission. The
7 procurement plan shall identify the portfolio of
8 demand-response and power and energy products to be
9 procured. Cost-effective demand-response measures shall be
10 procured as set forth in item (iii) of subsection (b) of
11 this Section. Copies of the procurement plan shall be
12 posted and made publicly available on the Agency's and
13 Commission's websites, and copies shall also be provided
14 to each affected electric utility. An affected utility
15 shall have 30 days following the date of posting to
16 provide comment to the Agency on the procurement plan.
17 Other interested entities also may comment on the
18 procurement plan. All comments submitted to the Agency
19 shall be specific, supported by data or other detailed
20 analyses, and, if objecting to all or a portion of the
21 procurement plan, accompanied by specific alternative
22 wording or proposals. All comments shall be posted on the
23 Agency's and Commission's websites. During this 30-day
24 comment period, the Agency shall hold at least one public
25 hearing within each utility's service area for the purpose
26 of receiving public comment on the procurement plan.

1 Within 14 days following the end of the 30-day review
2 period, the Agency shall revise the procurement plan as
3 necessary based on the comments received and file the
4 procurement plan with the Commission and post the
5 procurement plan on the websites.

6 (3) Within 5 days after the filing of the procurement
7 plan, any person objecting to the procurement plan shall
8 file an objection with the Commission. Within 10 days
9 after the filing, the Commission shall determine whether a
10 hearing is necessary. The Commission shall enter its order
11 confirming or modifying the procurement plan within 90
12 days after the filing of the procurement plan by the
13 Illinois Power Agency.

14 (4) The Commission shall approve the procurement plan,
15 including expressly the forecast used in the procurement
16 plan, if the Commission determines that it will ensure
17 adequate, reliable, affordable, efficient, and
18 environmentally sustainable electric service at the lowest
19 total cost over time, taking into account any benefits of
20 price stability.

21 (4.5) The Commission shall review the Agency's
22 recommendations for the selection of applicants to enter
23 into long-term contracts for the sale and delivery of
24 renewable energy credits from new renewable energy
25 facilities to be constructed at or adjacent to the sites
26 of coal-fueled electric generating facilities in this

1 State in accordance with the provisions of subsection
2 (c-5) of Section 1-75 of the Illinois Power Agency Act,
3 and shall approve the Agency's recommendations if the
4 Commission determines that the applicants recommended by
5 the Agency for selection, the proposed new renewable
6 energy facilities to be constructed, the amounts of
7 renewable energy credits to be delivered pursuant to the
8 contracts, and the other terms of the contracts, are
9 consistent with the requirements of subsection (c-5) of
10 Section 1-75 of the Illinois Power Agency Act.

11 (e) The procurement process shall include each of the
12 following components:

13 (1) Solicitation, pre-qualification, and registration
14 of bidders. The procurement administrator shall
15 disseminate information to potential bidders to promote a
16 procurement event, notify potential bidders that the
17 procurement administrator may enter into a post-bid price
18 negotiation with bidders that meet the applicable
19 benchmarks, provide supply requirements, and otherwise
20 explain the competitive procurement process. In addition
21 to such other publication as the procurement administrator
22 determines is appropriate, this information shall be
23 posted on the Illinois Power Agency's and the Commission's
24 websites. The procurement administrator shall also
25 administer the prequalification process, including
26 evaluation of credit worthiness, compliance with

1 procurement rules, and agreement to the standard form
2 contract developed pursuant to paragraph (2) of this
3 subsection (e). The procurement administrator shall then
4 identify and register bidders to participate in the
5 procurement event.

6 (2) Standard contract forms and credit terms and
7 instruments. The procurement administrator, in
8 consultation with the utilities, the Commission, and other
9 interested parties and subject to Commission oversight,
10 shall develop and provide standard contract forms for the
11 supplier contracts that meet generally accepted industry
12 practices. Standard credit terms and instruments that meet
13 generally accepted industry practices shall be similarly
14 developed. The procurement administrator shall make
15 available to the Commission all written comments it
16 receives on the contract forms, credit terms, or
17 instruments. If the procurement administrator cannot reach
18 agreement with the applicable electric utility as to the
19 contract terms and conditions, the procurement
20 administrator must notify the Commission of any disputed
21 terms and the Commission shall resolve the dispute. The
22 terms of the contracts shall not be subject to negotiation
23 by winning bidders, and the bidders must agree to the
24 terms of the contract in advance so that winning bids are
25 selected solely on the basis of price.

26 (3) Establishment of a market-based price benchmark.

1 As part of the development of the procurement process, the
2 procurement administrator, in consultation with the
3 Commission staff, Agency staff, and the procurement
4 monitor, shall establish benchmarks for evaluating the
5 final prices in the contracts for each of the products
6 that will be procured through the procurement process. The
7 benchmarks shall be based on price data for similar
8 products for the same delivery period and same delivery
9 hub, or other delivery hubs after adjusting for that
10 difference. The price benchmarks may also be adjusted to
11 take into account differences between the information
12 reflected in the underlying data sources and the specific
13 products and procurement process being used to procure
14 power for the Illinois utilities. The benchmarks shall be
15 confidential but shall be provided to, and will be subject
16 to Commission review and approval, prior to a procurement
17 event.

18 (4) Request for proposals competitive procurement
19 process. The procurement administrator shall design and
20 issue a request for proposals to supply electricity in
21 accordance with each utility's procurement plan, as
22 approved by the Commission. The request for proposals
23 shall set forth a procedure for sealed, binding commitment
24 bidding with pay-as-bid settlement, and provision for
25 selection of bids on the basis of price.

26 (5) A plan for implementing contingencies in the event

1 of supplier default or failure of the procurement process
2 to fully meet the expected load requirement due to
3 insufficient supplier participation, Commission rejection
4 of results, or any other cause.

5 (i) Event of supplier default: In the event of
6 supplier default, the utility shall review the
7 contract of the defaulting supplier to determine if
8 the amount of supply is 200 megawatts or greater, and
9 if there are more than 60 days remaining of the
10 contract term. If both of these conditions are met,
11 and the default results in termination of the
12 contract, the utility shall immediately notify the
13 Illinois Power Agency that a request for proposals
14 must be issued to procure replacement power, and the
15 procurement administrator shall run an additional
16 procurement event. If the contracted supply of the
17 defaulting supplier is less than 200 megawatts or
18 there are less than 60 days remaining of the contract
19 term, the utility shall procure power and energy from
20 the applicable regional transmission organization
21 market, including ancillary services, capacity, and
22 day-ahead or real time energy, or both, for the
23 duration of the contract term to replace the
24 contracted supply; provided, however, that if a needed
25 product is not available through the regional
26 transmission organization market it shall be purchased

1 from the wholesale market.

2 (ii) Failure of the procurement process to fully
3 meet the expected load requirement: If the procurement
4 process fails to fully meet the expected load
5 requirement due to insufficient supplier participation
6 or due to a Commission rejection of the procurement
7 results, the procurement administrator, the
8 procurement monitor, and the Commission staff shall
9 meet within 10 days to analyze potential causes of low
10 supplier interest or causes for the Commission
11 decision. If changes are identified that would likely
12 result in increased supplier participation, or that
13 would address concerns causing the Commission to
14 reject the results of the prior procurement event, the
15 procurement administrator may implement those changes
16 and rerun the request for proposals process according
17 to a schedule determined by those parties and
18 consistent with Section 1-75 of the Illinois Power
19 Agency Act and this subsection. In any event, a new
20 request for proposals process shall be implemented by
21 the procurement administrator within 90 days after the
22 determination that the procurement process has failed
23 to fully meet the expected load requirement.

24 (iii) In all cases where there is insufficient
25 supply provided under contracts awarded through the
26 procurement process to fully meet the electric

1 utility's load requirement, the utility shall meet the
2 load requirement by procuring power and energy from
3 the applicable regional transmission organization
4 market, including ancillary services, capacity, and
5 day-ahead or real time energy, or both; provided,
6 however, that if a needed product is not available
7 through the regional transmission organization market
8 it shall be purchased from the wholesale market.

9 (6) The procurement processes described in this
10 subsection and in subsection (c-5) of Section 1-75 of the
11 Illinois Power Agency Act are exempt from the requirements
12 of the Illinois Procurement Code, pursuant to Section
13 20-10 of that Code.

14 (f) Within 2 business days after opening the sealed bids,
15 the procurement administrator shall submit a confidential
16 report to the Commission. The report shall contain the results
17 of the bidding for each of the products along with the
18 procurement administrator's recommendation for the acceptance
19 and rejection of bids based on the price benchmark criteria
20 and other factors observed in the process. The procurement
21 monitor also shall submit a confidential report to the
22 Commission within 2 business days after opening the sealed
23 bids. The report shall contain the procurement monitor's
24 assessment of bidder behavior in the process as well as an
25 assessment of the procurement administrator's compliance with
26 the procurement process and rules. The Commission shall review

1 the confidential reports submitted by the procurement
2 administrator and procurement monitor, and shall accept or
3 reject the recommendations of the procurement administrator
4 within 2 business days after receipt of the reports.

5 (g) Within 3 business days after the Commission decision
6 approving the results of a procurement event, the utility
7 shall enter into binding contractual arrangements with the
8 winning suppliers using the standard form contracts; except
9 that the utility shall not be required either directly or
10 indirectly to execute the contracts if a tariff that is
11 consistent with subsection (1) of this Section has not been
12 approved and placed into effect for that utility.

13 (h) For the procurement of standard wholesale products,
14 the names of the successful bidders and the load weighted
15 average of the winning bid prices for each contract type and
16 for each contract term shall be made available to the public at
17 the time of Commission approval of a procurement event. For
18 procurements conducted to meet the requirements of subsection
19 (b) of Section 1-56 or subsection (c) of Section 1-75 of the
20 Illinois Power Agency Act governed by the provisions of this
21 Section, the address and nameplate capacity of the new
22 renewable energy generating facility proposed by a winning
23 bidder shall also be made available to the public at the time
24 of Commission approval of a procurement event, along with the
25 business address and contact information for any winning
26 bidder. An estimate or approximation of the nameplate capacity

1 of the new renewable energy generating facility may be
2 disclosed if necessary to protect the confidentiality of
3 individual bid prices.

4 The Commission, the procurement monitor, the procurement
5 administrator, the Illinois Power Agency, and all participants
6 in the procurement process shall maintain the confidentiality
7 of all other supplier and bidding information in a manner
8 consistent with all applicable laws, rules, regulations, and
9 tariffs. Confidential information, including the confidential
10 reports submitted by the procurement administrator and
11 procurement monitor pursuant to subsection (f) of this
12 Section, shall not be made publicly available and shall not be
13 discoverable by any party in any proceeding, absent a
14 compelling demonstration of need, nor shall those reports be
15 admissible in any proceeding other than one for law
16 enforcement purposes.

17 (i) Within 2 business days after a Commission decision
18 approving the results of a procurement event or such other
19 date as may be required by the Commission from time to time,
20 the utility shall file for informational purposes with the
21 Commission its actual or estimated retail supply charges, as
22 applicable, by customer supply group reflecting the costs
23 associated with the procurement and computed in accordance
24 with the tariffs filed pursuant to subsection (l) of this
25 Section and approved by the Commission.

26 (j) Within 60 days following August 28, 2007 (the

1 effective date of Public Act 95-481), each electric utility
2 that on December 31, 2005 provided electric service to at
3 least 100,000 customers in Illinois shall prepare and file
4 with the Commission an initial procurement plan, which shall
5 conform in all material respects to the requirements of the
6 procurement plan set forth in subsection (b); provided,
7 however, that the Illinois Power Agency Act shall not apply to
8 the initial procurement plan prepared pursuant to this
9 subsection. The initial procurement plan shall identify the
10 portfolio of power and energy products to be procured and
11 delivered for the period June 2008 through May 2009, and shall
12 identify the proposed procurement administrator, who shall
13 have the same experience and expertise as is required of a
14 procurement administrator hired pursuant to Section 1-75 of
15 the Illinois Power Agency Act. Copies of the procurement plan
16 shall be posted and made publicly available on the
17 Commission's website. The initial procurement plan may include
18 contracts for renewable resources that extend beyond May 2009.

19 (i) Within 14 days following filing of the initial
20 procurement plan, any person may file a detailed objection
21 with the Commission contesting the procurement plan
22 submitted by the electric utility. All objections to the
23 electric utility's plan shall be specific, supported by
24 data or other detailed analyses. The electric utility may
25 file a response to any objections to its procurement plan
26 within 7 days after the date objections are due to be

1 filed. Within 7 days after the date the utility's response
2 is due, the Commission shall determine whether a hearing
3 is necessary. If it determines that a hearing is
4 necessary, it shall require the hearing to be completed
5 and issue an order on the procurement plan within 60 days
6 after the filing of the procurement plan by the electric
7 utility.

8 (ii) The order shall approve or modify the procurement
9 plan, approve an independent procurement administrator,
10 and approve or modify the electric utility's tariffs that
11 are proposed with the initial procurement plan. The
12 Commission shall approve the procurement plan if the
13 Commission determines that it will ensure adequate,
14 reliable, affordable, efficient, and environmentally
15 sustainable electric service at the lowest total cost over
16 time, taking into account any benefits of price stability.

17 (k) (Blank).

18 (k-5) (Blank).

19 (l) An electric utility shall recover its costs incurred
20 under this Section and subsection (c-5) of Section 1-75 of the
21 Illinois Power Agency Act, including, but not limited to, the
22 costs of procuring power and energy demand-response resources
23 under this Section and its costs for purchasing renewable
24 energy credits pursuant to subsection (c-5) of Section 1-75 of
25 the Illinois Power Agency Act. The utility shall file with the
26 initial procurement plan its proposed tariffs through which

1 its costs of procuring power that are incurred pursuant to a
2 Commission-approved procurement plan and those other costs
3 identified in this subsection (1), will be recovered. The
4 tariffs shall include a formula rate or charge designed to
5 pass through both the costs incurred by the utility in
6 procuring a supply of electric power and energy for the
7 applicable customer classes with no mark-up or return on the
8 price paid by the utility for that supply, plus any just and
9 reasonable costs that the utility incurs in arranging and
10 providing for the supply of electric power and energy. The
11 formula rate or charge shall also contain provisions that
12 ensure that its application does not result in over or under
13 recovery due to changes in customer usage and demand patterns,
14 and that provide for the correction, on at least an annual
15 basis, of any accounting errors that may occur. A utility
16 shall recover through the tariff all reasonable costs incurred
17 to implement or comply with any procurement plan that is
18 developed and put into effect pursuant to Section 1-75 of the
19 Illinois Power Agency Act and this Section, and for the
20 procurement of renewable energy credits pursuant to subsection
21 (c-5) of Section 1-75 of the Illinois Power Agency Act,
22 including any fees assessed by the Illinois Power Agency,
23 costs associated with load balancing, and contingency plan
24 costs. The electric utility shall also recover its full costs
25 of procuring electric supply for which it contracted before
26 the effective date of this Section in conjunction with the

1 provision of full requirements service under fixed-price
2 bundled service tariffs subsequent to December 31, 2006. All
3 such costs shall be deemed to have been prudently incurred.
4 The pass-through tariffs that are filed and approved pursuant
5 to this Section shall not be subject to review under, or in any
6 way limited by, Section 16-111(i) of this Act. All of the costs
7 incurred by the electric utility associated with the purchase
8 of zero emission credits in accordance with subsection (d-5)
9 of Section 1-75 of the Illinois Power Agency Act, all costs
10 incurred by the electric utility associated with the purchase
11 of carbon mitigation credits in accordance with subsection
12 (d-10) of Section 1-75 of the Illinois Power Agency Act, and,
13 beginning June 1, 2017, all of the costs incurred by the
14 electric utility associated with the purchase of renewable
15 energy resources in accordance with Sections 1-56 and 1-75 of
16 the Illinois Power Agency Act, and all of the costs incurred by
17 the electric utility in purchasing renewable energy credits in
18 accordance with subsection (c-5) of Section 1-75 of the
19 Illinois Power Agency Act, and all costs incurred by the
20 electric utility in purchasing energy storage credits in
21 accordance with Section 1-93 of the Illinois Power Agency Act
22 shall be recovered through the electric utility's tariffed
23 charges applicable to all of its retail customers, as
24 specified in subsection (k) or subsection (i-5), as
25 applicable, of Section 16-108 of this Act, and shall not be
26 recovered through the electric utility's tariffed charges for

1 electric power and energy supply to its eligible retail
2 customers.

3 (m) The Commission has the authority to adopt rules to
4 carry out the provisions of this Section. For the public
5 interest, safety, and welfare, the Commission also has
6 authority to adopt rules to carry out the provisions of this
7 Section on an emergency basis immediately following August 28,
8 2007 (the effective date of Public Act 95-481).

9 (n) Notwithstanding any other provision of this Act, any
10 affiliated electric utilities that submit a single procurement
11 plan covering their combined needs may procure for those
12 combined needs in conjunction with that plan, and may enter
13 jointly into power supply contracts, purchases, and other
14 procurement arrangements, and allocate capacity and energy and
15 cost responsibility therefor among themselves in proportion to
16 their requirements.

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

21 (p) An electric utility subject to this Section may
22 propose to invest, lease, own, or operate an electric
23 generation facility as part of its procurement plan, provided
24 the utility demonstrates that such facility is the least-cost
25 option to provide electric service to those retail customers
26 included in the plan's electric supply service requirements.

1 If the facility is shown to be the least-cost option and is
2 included in a procurement plan prepared in accordance with
3 Section 1-75 of the Illinois Power Agency Act and this
4 Section, then the electric utility shall make a filing
5 pursuant to Section 8-406 of this Act, and may request of the
6 Commission any statutory relief required thereunder. If the
7 Commission grants all of the necessary approvals for the
8 proposed facility, such supply shall thereafter be considered
9 as a pre-existing contract under subsection (b) of this
10 Section. The Commission shall in any order approving a
11 proposal under this subsection specify how the utility will
12 recover the prudently incurred costs of investing in, leasing,
13 owning, or operating such generation facility through just and
14 reasonable rates charged to those retail customers included in
15 the plan's electric supply service requirements. Cost recovery
16 for facilities included in the utility's procurement plan
17 pursuant to this subsection shall not be subject to review
18 under or in any way limited by the provisions of Section
19 16-111(i) of this Act. Nothing in this Section is intended to
20 prohibit a utility from filing for a fuel adjustment clause as
21 is otherwise permitted under Section 9-220 of this Act.

22 (q) If the Illinois Power Agency filed with the
23 Commission, under Section 16-111.5 of this Act, its proposed
24 procurement plan for the period commencing June 1, 2017, and
25 the Commission has not yet entered its final order approving
26 the plan on or before the effective date of this amendatory Act

1 of the 99th General Assembly, then the Illinois Power Agency
2 shall file a notice of withdrawal with the Commission, after
3 the effective date of this amendatory Act of the 99th General
4 Assembly, to withdraw the proposed procurement of renewable
5 energy resources to be approved under the plan, other than the
6 procurement of renewable energy credits from distributed
7 renewable energy generation devices using funds previously
8 collected from electric utilities' retail customers that take
9 service pursuant to electric utilities' hourly pricing tariff
10 or tariffs and, for an electric utility that serves less than
11 100,000 retail customers in the State, other than the
12 procurement of renewable energy credits from distributed
13 renewable energy generation devices. Upon receipt of the
14 notice, the Commission shall enter an order that approves the
15 withdrawal of the proposed procurement of renewable energy
16 resources from the plan. The initially proposed procurement of
17 renewable energy resources shall not be approved or be the
18 subject of any further hearing, investigation, proceeding, or
19 order of any kind.

20 This amendatory Act of the 99th General Assembly preempts
21 and supersedes any order entered by the Commission that
22 approved the Illinois Power Agency's procurement plan for the
23 period commencing June 1, 2017, to the extent it is
24 inconsistent with the provisions of this amendatory Act of the
25 99th General Assembly. To the extent any previously entered
26 order approved the procurement of renewable energy resources,

1 the portion of that order approving the procurement shall be
2 void, other than the procurement of renewable energy credits
3 from distributed renewable energy generation devices using
4 funds previously collected from electric utilities' retail
5 customers that take service under electric utilities' hourly
6 pricing tariff or tariffs and, for an electric utility that
7 serves less than 100,000 retail customers in the State, other
8 than the procurement of renewable energy credits for
9 distributed renewable energy generation devices.

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

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.