

103RD GENERAL ASSEMBLY**State of Illinois****2023 and 2024****SB3949**

Introduced 5/8/2024, by Sen. Bill Cunningham

SYNOPSIS AS INTRODUCED:

See Index

Provides that the amendatory Act may be referred to as the Transmission for Transition Law. Amends the Illinois Enterprise Zone Act. Provides that the Department of Commerce and Economic Opportunity is authorized to receive and approve applications for the designation of "High Impact Businesses" if the business intends to construct a new high voltage direct current converter station facility at a designated location in Illinois. Amends the Illinois Power Agency Act. Provides that the long-term renewable resources procurement plan shall include the procurement of renewable energy credits from high voltage direct current renewable energy credits. Provides that the Illinois Power Agency shall conduct at least one forward procurement for high voltage direct current renewable energy credits within 240 days after the effective date of the amendatory Act. Sets forth procedures for application and bidding. Provides that, no later than December 1, 2024, the Agency shall create and issue a report that describes how transmission systems limit the ability of electric utilities to meet renewable resource procurement goals. Makes changes in provisions concerning legislative declarations and findings and definitions. Makes conforming changes. Amends the Public Utilities Act. Provides that an electric utility that has entered into a contract to purchase high voltage direct current renewable energy credits shall be entitled to recover through tariffed charges all costs related to the purchase of high voltage direct current renewable energy credits under the contract. Provides that an entity that received a contract to provide high voltage direct current renewable energy credits and the associated high voltage direct current transmission lines shall not be obligated to submit an annual supplier diversity report to the Illinois Commerce Commission. Makes changes to provisions concerning definitions. Amends the Prevailing Wage Act to make a conforming change. Effective immediately.

LRB103 40603 LNS 73240 b

1 AN ACT concerning regulation.

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

4 Section 1. References to Act. This Act may be referred to
5 as the Transmission for Transition Law.

6 Section 5. Findings. The General Assembly finds and
7 determines that:

8 (1) Illinois is committed to addressing climate change
9 through the development and delivery of renewable energy
10 resources.

11 (2) A robust transmission system is critical to the
12 State's regional and national economic and energy
13 security.

14 (3) Deploying interregional transmission,
15 specifically high voltage direct current transmission
16 lines connecting multiple independent system operator
17 service areas or regional transmission organization
18 service areas, so that abundant, high-capacity renewable
19 energy resources are connected to demand centers, will
20 increase the reliability and resilience of the electric
21 grid.

22 (4) The United States Department of Energy has
23 determined that increased transmission is a cost-effective

1 means to access low-cost renewable generation to serve
2 load centers and facilitate the transition to clean
3 energy.

4 (5) The Illinois Commerce Commission's Renewable
5 Energy Access Plan recommends the development of a
6 strategy for proactive interregional transmission
7 planning.

8 (6) Meeting the State's decarbonization goals with
9 geographically diverse renewable energy resources will
10 require long-term procurement of renewable energy
11 resources and infrastructure necessary to transmit those
12 renewable energy resources.

13 (7) The health, welfare, and prosperity of the
14 residents of the State will improve if new interregional
15 transmission projects bring renewable resources from
16 geographically diverse sources to the State.

17 (8) It is beneficial for new transmission projects to
18 transmit renewable energy resources procured by the
19 Illinois Power Agency on behalf of the residents and
20 ratepayers of the State. New transmission projects
21 participating in Agency procurements or delivering
22 renewable energy resources procured by the Illinois Power
23 Agency can provide significant economic benefits to equity
24 investment eligible communities, equity eligible persons,
25 minority-owned businesses, women-owned businesses, and
26 other economically disadvantaged populations and

1 businesses.

2 (9) New interregional transmission projects create
3 economic opportunity and thousands of new
4 family-sustaining jobs to construct the projects.

5 (10) The State and all of its residents will benefit
6 from the development of interregional high voltage direct
7 current transmission facilities.

8 Therefore, the General Assembly finds that it is necessary
9 to enact this Act to encourage the responsible development of
10 high voltage direct current transmission lines in the State in
11 pursuit of an affordable, reliable transition to a clean
12 energy future.

13 Section 10. The Illinois Enterprise Zone Act is amended by
14 changing Section 5.5 as follows:

15 (20 ILCS 655/5.5) (from Ch. 67 1/2, par. 609.1)

16 Sec. 5.5. High Impact Business.

17 (a) In order to respond to unique opportunities to assist
18 in the encouragement, development, growth, and expansion of
19 the private sector through large scale investment and
20 development projects, the Department is authorized to receive
21 and approve applications for the designation of "High Impact
22 Businesses" in Illinois, for an initial term of 20 years with
23 an option for renewal for a term not to exceed 20 years,
24 subject to the following conditions:

1 (1) such applications may be submitted at any time
2 during the year;

3 (2) such business is not located, at the time of
4 designation, in an enterprise zone designated pursuant to
5 this Act;

6 (3) the business intends to do, commits to do, or is
7 one or more of the following:

8 (A) the business intends to make a minimum
9 investment of \$12,000,000 which will be placed in
10 service in qualified property and intends to create
11 500 full-time equivalent jobs at a designated location
12 in Illinois or intends to make a minimum investment of
13 \$30,000,000 which will be placed in service in
14 qualified property and intends to retain 1,500
15 full-time retained jobs at a designated location in
16 Illinois. The terms "placed in service" and "qualified
17 property" have the same meanings as described in
18 subsection (h) of Section 201 of the Illinois Income
19 Tax Act; or

20 (B) the business intends to establish a new
21 electric generating facility at a designated location
22 in Illinois. "New electric generating facility", for
23 purposes of this Section, means a newly constructed
24 electric generation plant or a newly constructed
25 generation capacity expansion at an existing electric
26 generation plant, including the transmission lines and

1 associated equipment that transfers electricity from
2 points of supply to points of delivery, and for which
3 such new foundation construction commenced not sooner
4 than July 1, 2001. Such facility shall be designed to
5 provide baseload electric generation and shall operate
6 on a continuous basis throughout the year; and (i)
7 shall have an aggregate rated generating capacity of
8 at least 1,000 megawatts for all new units at one site
9 if it uses natural gas as its primary fuel and
10 foundation construction of the facility is commenced
11 on or before December 31, 2004, or shall have an
12 aggregate rated generating capacity of at least 400
13 megawatts for all new units at one site if it uses coal
14 or gases derived from coal as its primary fuel and
15 shall support the creation of at least 150 new
16 Illinois coal mining jobs, or (ii) shall be funded
17 through a federal Department of Energy grant before
18 December 31, 2010 and shall support the creation of
19 Illinois coal mining ~~coal mining~~ jobs, or (iii) shall
20 use coal gasification or integrated
21 gasification-combined cycle units that generate
22 electricity or chemicals, or both, and shall support
23 the creation of Illinois coal mining ~~coal mining~~ jobs.
24 The term "placed in service" has the same meaning as
25 described in subsection (h) of Section 201 of the
26 Illinois Income Tax Act; or

1 (B-5) the business intends to establish a new
2 gasification facility at a designated location in
3 Illinois. As used in this Section, "new gasification
4 facility" means a newly constructed coal gasification
5 facility that generates chemical feedstocks or
6 transportation fuels derived from coal (which may
7 include, but are not limited to, methane, methanol,
8 and nitrogen fertilizer), that supports the creation
9 or retention of Illinois coal mining ~~coal mining~~ jobs,
10 and that qualifies for financial assistance from the
11 Department before December 31, 2010. A new
12 gasification facility does not include a pilot project
13 located within Jefferson County or within a county
14 adjacent to Jefferson County for synthetic natural gas
15 from coal; or

16 (C) the business intends to establish production
17 operations at a new coal mine, re-establish production
18 operations at a closed coal mine, or expand production
19 at an existing coal mine at a designated location in
20 Illinois not sooner than July 1, 2001; provided that
21 the production operations result in the creation of
22 150 new Illinois coal mining jobs as described in
23 subdivision (a)(3)(B) of this Section, and further
24 provided that the coal extracted from such mine is
25 utilized as the predominant source for a new electric
26 generating facility. The term "placed in service" has

1 the same meaning as described in subsection (h) of
2 Section 201 of the Illinois Income Tax Act; or

3 (D) the business intends to construct new
4 transmission facilities or upgrade existing
5 transmission facilities at designated locations in
6 Illinois, for which construction commenced not sooner
7 than July 1, 2001. For the purposes of this Section,
8 "transmission facilities" means transmission lines
9 with a voltage rating of 115 kilovolts or above,
10 including associated equipment, that transfer
11 electricity from points of supply to points of
12 delivery and that transmit a majority of the
13 electricity generated by a new electric generating
14 facility designated as a High Impact Business in
15 accordance with this Section. The term "placed in
16 service" has the same meaning as described in
17 subsection (h) of Section 201 of the Illinois Income
18 Tax Act; or

19 (E) the business intends to establish a new wind
20 power facility at a designated location in Illinois.
21 For purposes of this Section, "new wind power
22 facility" means a newly constructed electric
23 generation facility, a newly constructed expansion of
24 an existing electric generation facility, or the
25 replacement of an existing electric generation
26 facility, including the demolition and removal of an

1 electric generation facility irrespective of whether
2 it will be replaced, placed in service or replaced on
3 or after July 1, 2009, that generates electricity
4 using wind energy devices, and such facility shall be
5 deemed to include any permanent structures associated
6 with the electric generation facility and all
7 associated transmission lines, substations, and other
8 equipment related to the generation of electricity
9 from wind energy devices. For purposes of this
10 Section, "wind energy device" means any device, with a
11 nameplate capacity of at least 0.5 megawatts, that is
12 used in the process of converting kinetic energy from
13 the wind to generate electricity; or

14 (E-5) the business intends to establish a new
15 utility-scale solar facility at a designated location
16 in Illinois. For purposes of this Section, "new
17 utility-scale solar power facility" means a newly
18 constructed electric generation facility, or a newly
19 constructed expansion of an existing electric
20 generation facility, placed in service on or after
21 July 1, 2021, that (i) generates electricity using
22 photovoltaic cells and (ii) has a nameplate capacity
23 that is greater than 5,000 kilowatts, and such
24 facility shall be deemed to include all associated
25 transmission lines, substations, energy storage
26 facilities, and other equipment related to the

1 generation and storage of electricity from
2 photovoltaic cells; or

3 (F) the business commits to (i) make a minimum
4 investment of \$500,000,000, which will be placed in
5 service in a qualified property, (ii) create 125
6 full-time equivalent jobs at a designated location in
7 Illinois, (iii) establish a fertilizer plant at a
8 designated location in Illinois that complies with the
9 set-back standards as described in Table 1: Initial
10 Isolation and Protective Action Distances in the 2012
11 Emergency Response Guidebook published by the United
12 States Department of Transportation, (iv) pay a
13 prevailing wage for employees at that location who are
14 engaged in construction activities, and (v) secure an
15 appropriate level of general liability insurance to
16 protect against catastrophic failure of the fertilizer
17 plant or any of its constituent systems; in addition,
18 the business must agree to enter into a construction
19 project labor agreement including provisions
20 establishing wages, benefits, and other compensation
21 for employees performing work under the project labor
22 agreement at that location; for the purposes of this
23 Section, "fertilizer plant" means a newly constructed
24 or upgraded plant utilizing gas used in the production
25 of anhydrous ammonia and downstream nitrogen
26 fertilizer products for resale; for the purposes of

1 this Section, "prevailing wage" means the hourly cash
2 wages plus fringe benefits for training and
3 apprenticeship programs approved by the U.S.
4 Department of Labor, Bureau of Apprenticeship and
5 Training, health and welfare, insurance, vacations and
6 pensions paid generally, in the locality in which the
7 work is being performed, to employees engaged in work
8 of a similar character on public works; this paragraph
9 (F) applies only to businesses that submit an
10 application to the Department within 60 days after
11 July 25, 2013 (the effective date of Public Act
12 98-109); or

13 (G) the business intends to establish a new
14 cultured cell material food production facility at a
15 designated location in Illinois. As used in this
16 paragraph (G):

17 "Cultured cell material food production facility"
18 means a facility (i) at which cultured animal cell
19 food is developed using animal cell culture
20 technology, (ii) at which production processes occur
21 that include the establishment of cell lines and cell
22 banks, manufacturing controls, and all components and
23 inputs, and (iii) that complies with all existing
24 registrations, inspections, licensing, and approvals
25 from all applicable and participating State and
26 federal food agencies, including the Department of

1 Agriculture, the Department of Public Health, and the
2 United States Food and Drug Administration, to ensure
3 that all food production is safe and lawful under
4 provisions of the Federal Food, Drug and Cosmetic Act
5 related to the development, production, and storage of
6 cultured animal cell food.

7 "New cultured cell material food production
8 facility" means a newly constructed cultured cell
9 material food production facility that is placed in
10 service on or after June 7, 2023 (the effective date of
11 Public Act 103-9) ~~this amendatory Act of the 103rd~~
12 ~~General Assembly~~ or a newly constructed expansion of
13 an existing cultured cell material food production
14 facility, in a controlled environment, when the
15 improvements are placed in service on or after June 7,
16 2023 (the effective date of Public Act 103-9) ~~this~~
17 ~~amendatory Act of the 103rd General Assembly; or and~~

18 (H) ~~(G)~~ the business is an existing or planned
19 grocery store, as that term is defined in Section 5 of
20 the Grocery Initiative Act, and receives financial
21 support under that Act within the 10 years before
22 submitting its application under this Act; or and

23 (I) the business intends to construct a new high
24 voltage direct current converter station facility at a
25 designated location in Illinois. As used in this
26 paragraph, "high voltage direct current converter

1 station" has the same meaning given to that term in
2 Section 1-10 of the Illinois Power Act; and

3 (4) no later than 90 days after an application is
4 submitted, the Department shall notify the applicant of
5 the Department's determination of the qualification of the
6 proposed High Impact Business under this Section.

7 (b) Businesses designated as High Impact Businesses
8 pursuant to subdivision (a)(3)(A) of this Section shall
9 qualify for the credits and exemptions described in the
10 following Acts: Section 9-222 and Section 9-222.1A of the
11 Public Utilities Act, subsection (h) of Section 201 of the
12 Illinois Income Tax Act, and Section 1d of the Retailers'
13 Occupation Tax Act; provided that these credits and exemptions
14 described in these Acts shall not be authorized until the
15 minimum investments set forth in subdivision (a)(3)(A) of this
16 Section have been placed in service in qualified properties
17 and, in the case of the exemptions described in the Public
18 Utilities Act and Section 1d of the Retailers' Occupation Tax
19 Act, the minimum full-time equivalent jobs or full-time
20 retained jobs set forth in subdivision (a)(3)(A) of this
21 Section have been created or retained. Businesses designated
22 as High Impact Businesses under this Section shall also
23 qualify for the exemption described in Section 5l of the
24 Retailers' Occupation Tax Act. The credit provided in
25 subsection (h) of Section 201 of the Illinois Income Tax Act
26 shall be applicable to investments in qualified property as

1 set forth in subdivision (a) (3) (A) of this Section.

2 (b-5) Businesses designated as High Impact Businesses
3 pursuant to subdivisions (a) (3) (B), (a) (3) (B-5), (a) (3) (C),
4 (a) (3) (D), ~~and~~ (a) (3) (G), and (a) (3) (H) of this Section shall
5 qualify for the credits and exemptions described in the
6 following Acts: Section 51 of the Retailers' Occupation Tax
7 Act, Section 9-222 and Section 9-222.1A of the Public
8 Utilities Act, and subsection (h) of Section 201 of the
9 Illinois Income Tax Act; however, the credits and exemptions
10 authorized under Section 9-222 and Section 9-222.1A of the
11 Public Utilities Act, and subsection (h) of Section 201 of the
12 Illinois Income Tax Act shall not be authorized until the new
13 electric generating facility, the new gasification facility,
14 the new transmission facility, the new, expanded, or reopened
15 coal mine, ~~or~~ the new cultured cell material food production
16 facility, or the existing or planned grocery store is
17 operational, except that a new electric generating facility
18 whose primary fuel source is natural gas is eligible only for
19 the exemption under Section 51 of the Retailers' Occupation
20 Tax Act.

21 (b-6) Businesses designated as High Impact Businesses
22 pursuant to subdivision (a) (3) (E), ~~or~~ (a) (3) (E-5), or
23 (a) (3) (I) of this Section shall qualify for the exemptions
24 described in Section 51 of the Retailers' Occupation Tax Act;
25 any business so designated as a High Impact Business being,
26 for purposes of this Section, a "Wind Energy Business".

1 (b-7) Beginning on January 1, 2021, businesses designated
2 as High Impact Businesses by the Department shall qualify for
3 the High Impact Business construction jobs credit under
4 subsection (h-5) of Section 201 of the Illinois Income Tax Act
5 if the business meets the criteria set forth in subsection (i)
6 of this Section. The total aggregate amount of credits awarded
7 under the Blue Collar Jobs Act (Article 20 of Public Act 101-9)
8 shall not exceed \$20,000,000 in any State fiscal year.

9 (c) High Impact Businesses located in federally designated
10 foreign trade zones or sub-zones are also eligible for
11 additional credits, exemptions and deductions as described in
12 the following Acts: Section 9-221 and Section 9-222.1 of the
13 Public Utilities Act; and subsection (g) of Section 201, and
14 Section 203 of the Illinois Income Tax Act.

15 (d) Except for businesses contemplated under subdivision
16 (a) (3) (D), (a) (3) (E), (a) (3) (E-5), ~~or~~ (a) (3) (G), (a) (3) (H), or
17 (a) (3) (I) of this Section, existing Illinois businesses which
18 apply for designation as a High Impact Business must provide
19 the Department with the prospective plan for which 1,500
20 full-time retained jobs would be eliminated in the event that
21 the business is not designated.

22 (e) Except for new businesses contemplated under
23 subdivision (a) (3) (D), (a) (3) (E), ~~or subdivision~~ (a) (3) (G),
24 (a) (3) (H), or (a) (3) (I) of this Section, new proposed
25 facilities which apply for designation as High Impact Business
26 must provide the Department with proof of alternative

1 non-Illinois sites which would receive the proposed investment
2 and job creation in the event that the business is not
3 designated as a High Impact Business.

4 (f) Except for businesses contemplated under subdivision
5 (a) (3) (D), (a) (3) (E), or subdivision (a) (3) (G), (a) (3) (H), or
6 (a) (3) (I) of this Section, in the event that a business is
7 designated a High Impact Business and it is later determined
8 after reasonable notice and an opportunity for a hearing as
9 provided under the Illinois Administrative Procedure Act, that
10 the business would have placed in service in qualified
11 property the investments and created or retained the requisite
12 number of jobs without the benefits of the High Impact
13 Business designation, the Department shall be required to
14 immediately revoke the designation and notify the Director of
15 the Department of Revenue who shall begin proceedings to
16 recover all wrongfully exempted State taxes with interest. The
17 business shall also be ineligible for all State funded
18 Department programs for a period of 10 years.

19 (g) The Department shall revoke a High Impact Business
20 designation if the participating business fails to comply with
21 the terms and conditions of the designation.

22 (h) Prior to designating a business, the Department shall
23 provide the members of the General Assembly and Commission on
24 Government Forecasting and Accountability with a report
25 setting forth the terms and conditions of the designation and
26 guarantees that have been received by the Department in

1 relation to the proposed business being designated.

2 (i) High Impact Business construction jobs credit.
3 Beginning on January 1, 2021, a High Impact Business may
4 receive a tax credit against the tax imposed under subsections
5 (a) and (b) of Section 201 of the Illinois Income Tax Act in an
6 amount equal to 50% of the amount of the incremental income tax
7 attributable to High Impact Business construction jobs credit
8 employees employed in the course of completing a High Impact
9 Business construction jobs project. However, the High Impact
10 Business construction jobs credit may equal 75% of the amount
11 of the incremental income tax attributable to High Impact
12 Business construction jobs credit employees if the High Impact
13 Business construction jobs credit project is located in an
14 underserved area.

15 The Department shall certify to the Department of Revenue:
16 (1) the identity of taxpayers that are eligible for the High
17 Impact Business construction jobs credit; and (2) the amount
18 of High Impact Business construction jobs credits that are
19 claimed pursuant to subsection (h-5) of Section 201 of the
20 Illinois Income Tax Act in each taxable year. Any business
21 entity that receives a High Impact Business construction jobs
22 credit shall maintain a certified payroll pursuant to
23 subsection (j) of this Section.

24 As used in this subsection (i):

25 "High Impact Business construction jobs credit" means an
26 amount equal to 50% (or 75% if the High Impact Business

1 construction project is located in an underserved area) of the
2 incremental income tax attributable to High Impact Business
3 construction job employees. The total aggregate amount of
4 credits awarded under the Blue Collar Jobs Act (Article 20 of
5 Public Act 101-9) shall not exceed \$20,000,000 in any State
6 fiscal year

7 "High Impact Business construction job employee" means a
8 laborer or worker who is employed by an Illinois contractor or
9 subcontractor in the actual construction work on the site of a
10 High Impact Business construction job project.

11 "High Impact Business construction jobs project" means
12 building a structure or building or making improvements of any
13 kind to real property, undertaken and commissioned by a
14 business that was designated as a High Impact Business by the
15 Department. The term "High Impact Business construction jobs
16 project" does not include the routine operation, routine
17 repair, or routine maintenance of existing structures,
18 buildings, or real property.

19 "Incremental income tax" means the total amount withheld
20 during the taxable year from the compensation of High Impact
21 Business construction job employees.

22 "Underserved area" means a geographic area that meets one
23 or more of the following conditions:

24 (1) the area has a poverty rate of at least 20%
25 according to the latest American Community Survey;

26 (2) 35% or more of the families with children in the

1 area are living below 130% of the poverty line, according
2 to the latest American Community Survey;

3 (3) at least 20% of the households in the area receive
4 assistance under the Supplemental Nutrition Assistance
5 Program (SNAP); or

6 (4) the area has an average unemployment rate, as
7 determined by the Illinois Department of Employment
8 Security, that is more than 120% of the national
9 unemployment average, as determined by the U.S. Department
10 of Labor, for a period of at least 2 consecutive calendar
11 years preceding the date of the application.

12 (j) Each contractor and subcontractor who is engaged in
13 and executing a High Impact Business construction ~~Construction~~
14 jobs project, as defined under subsection (i) of this Section,
15 for a business that is entitled to a credit pursuant to
16 subsection (i) of this Section shall:

17 (1) make and keep, for a period of 5 years from the
18 date of the last payment made on or after June 5, 2019 (the
19 effective date of Public Act 101-9) on a contract or
20 subcontract for a High Impact Business construction jobs
21 project ~~Construction Jobs Project~~, records for all
22 laborers and other workers employed by the contractor or
23 subcontractor on the project; the records shall include:

24 (A) the worker's name;

25 (B) the worker's address;

26 (C) the worker's telephone number, if available;

- 1 (D) the worker's social security number;
- 2 (E) the worker's classification or
3 classifications;
- 4 (F) the worker's gross and net wages paid in each
5 pay period;
- 6 (G) the worker's number of hours worked each day;
- 7 (H) the worker's starting and ending times of work
8 each day;
- 9 (I) the worker's hourly wage rate;
- 10 (J) the worker's hourly overtime wage rate;
- 11 (K) the worker's race and ethnicity; and
- 12 (L) the worker's gender;

13 (2) no later than the 15th day of each calendar month,
14 provide a certified payroll for the immediately preceding
15 month to the taxpayer in charge of the High Impact
16 Business construction jobs project; within 5 business days
17 after receiving the certified payroll, the taxpayer shall
18 file the certified payroll with the Department of Labor
19 and the Department of Commerce and Economic Opportunity; a
20 certified payroll must be filed for only those calendar
21 months during which construction on a High Impact Business
22 construction jobs project has occurred; the certified
23 payroll shall consist of a complete copy of the records
24 identified in paragraph (1) of this subsection (j), but
25 may exclude the starting and ending times of work each
26 day; the certified payroll shall be accompanied by a

1 statement signed by the contractor or subcontractor or an
2 officer, employee, or agent of the contractor or
3 subcontractor which avers that:

4 (A) he or she has examined the certified payroll
5 records required to be submitted by the Act and such
6 records are true and accurate; and

7 (B) the contractor or subcontractor is aware that
8 filing a certified payroll that he or she knows to be
9 false is a Class A misdemeanor.

10 A general contractor is not prohibited from relying on a
11 certified payroll of a lower-tier subcontractor, provided the
12 general contractor does not knowingly rely upon a
13 subcontractor's false certification.

14 Any contractor or subcontractor subject to this
15 subsection, and any officer, employee, or agent of such
16 contractor or subcontractor whose duty as an officer,
17 employee, or agent it is to file a certified payroll under this
18 subsection, who willfully fails to file such a certified
19 payroll on or before the date such certified payroll is
20 required by this paragraph to be filed and any person who
21 willfully files a false certified payroll that is false as to
22 any material fact is in violation of this Act and guilty of a
23 Class A misdemeanor.

24 The taxpayer in charge of the project shall keep the
25 records submitted in accordance with this subsection on or
26 after June 5, 2019 (the effective date of Public Act 101-9) for

1 a period of 5 years from the date of the last payment for work
2 on a contract or subcontract for the High Impact Business
3 construction jobs project.

4 The records submitted in accordance with this subsection
5 shall be considered public records, except an employee's
6 address, telephone number, and social security number, and
7 made available in accordance with the Freedom of Information
8 Act. The Department of Labor shall share the information with
9 the Department in order to comply with the awarding of a High
10 Impact Business construction jobs credit. A contractor,
11 subcontractor, or public body may retain records required
12 under this Section in paper or electronic format.

13 (k) Upon 7 business days' notice, each contractor and
14 subcontractor shall make available for inspection and copying
15 at a location within this State during reasonable hours, the
16 records identified in this subsection (j) to the taxpayer in
17 charge of the High Impact Business construction jobs project,
18 its officers and agents, the Director of the Department of
19 Labor and his or her deputies and agents, and to federal,
20 State, or local law enforcement agencies and prosecutors.

21 (l) The changes made to this Section by Public Act
22 102-1125 ~~this amendatory Act of the 102nd General Assembly,~~
23 other than the changes in subsection (a), apply to High Impact
24 Businesses ~~high impact businesses~~ that submit applications on
25 or after February 3, 2023 (the effective date of Public Act
26 102-1125) ~~this amendatory Act of the 102nd General Assembly.~~

1 (Source: P.A. 102-108, eff. 1-1-22; 102-558, eff. 8-20-21;
2 102-605, eff. 8-27-21; 102-662, eff. 9-15-21; 102-673, eff.
3 11-30-21; 102-813, eff. 5-13-22; 102-1125, eff. 2-3-23; 103-9,
4 eff. 6-7-23; 103-561, eff. 1-1-24; revised 3-15-24.)

5 Section 15. The Illinois Power Agency Act is amended by
6 changing Sections 1-5, 1-10, and 1-75 and by adding Section
7 1-126 as follows:

8 (20 ILCS 3855/1-5)

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

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

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

20 (2) (Blank).

21 (3) (Blank).

22 (4) It is necessary to improve the process of
23 procuring electricity to serve Illinois residents, to
24 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 that are capable of transmitting power
7 to the service territory of a public utility as defined in
8 Section 3-105 of the Public Utilities Act ~~predominantly~~
9 ~~along transportation rights of way, with an HVDC converter~~
10 ~~station that is located in the service territory of a~~
11 ~~public utility as defined in Section 3-105 of the Public~~
12 ~~Utilities Act serving more than 3,000,000 retail~~
13 ~~customers, and with a project labor agreement as defined~~
14 ~~in Section 1-10 of this Act.~~

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

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

24 (13) To ensure that the benefits of installing
25 renewable resources are available to all Illinois
26 residents and located across the State, subject to

1 appropriation, it is necessary for the Agency to provide
2 public information and educational resources on how
3 residents can benefit from the expansion of renewable
4 energy in Illinois and participate in the Illinois Solar
5 for All Program established in Section 1-56, the
6 Adjustable Block program established in Section 1-75, the
7 job training programs established by paragraph (1) of
8 subsection (a) of Section 16-108.12 of the Public
9 Utilities Act, and the programs and resources established
10 by the Energy Transition Act.

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

15 (A) Develop electricity procurement plans to ensure
16 adequate, reliable, affordable, efficient, and
17 environmentally sustainable electric service at the lowest
18 total cost over time, taking into account any benefits of
19 price stability, for electric utilities that on December
20 31, 2005 provided electric service to at least 100,000
21 customers in Illinois and for small multi-jurisdictional
22 electric utilities that (i) on December 31, 2005 served
23 less than 100,000 customers in Illinois and (ii) request a
24 procurement plan for their Illinois jurisdictional load.
25 The procurement plan shall be updated on an annual basis
26 and shall include renewable energy resources and,

1 beginning with the delivery year commencing June 1, 2017,
2 zero emission credits from zero emission facilities
3 sufficient to achieve the standards specified in this Act.

4 (B) Conduct the competitive procurement processes
5 identified in this Act.

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

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

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

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

21 (G) Operate in a structurally insulated, independent,
22 and transparent fashion so that nothing impedes the
23 Agency's mission to secure power at the best prices the
24 market will bear, provided that the Agency meets all
25 applicable legal requirements.

26 (H) Implement renewable energy procurement and

1 training programs throughout the State to diversify
2 Illinois electricity supply, improve reliability, avoid
3 and reduce pollution, reduce peak demand, and enhance
4 public health and well-being of Illinois residents,
5 including low-income residents.

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

7 (20 ILCS 3855/1-10)

8 Sec. 1-10. Definitions.

9 "Agency" means the Illinois Power Agency.

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

18 "Authority" means the Illinois Finance Authority.

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

21 (1) interconnected to an electric utility as defined
22 in this Section, a municipal utility as defined in this
23 Section, a public utility as defined in Section 3-105 of
24 the Public Utilities Act, or an electric cooperative as
25 defined in Section 3-119 of the Public Utilities Act and

1 located at a site that is regulated by any of the following
2 entities under the following programs:

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

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

11 (C) the Illinois Environmental Protection Agency
12 under the Illinois Site Remediation Program; or

13 (D) the Illinois Environmental Protection Agency
14 under the Illinois Solid Waste Program; or

15 (2) located at the site of a coal mine that has
16 permanently ceased coal production, permanently halted any
17 re-mining operations, and is no longer accepting any coal
18 combustion residues; has both completed all clean-up and
19 remediation obligations under the federal Surface Mining
20 and Reclamation Act of 1977 and all applicable Illinois
21 rules and any other clean-up, remediation, or ongoing
22 monitoring to safeguard the health and well-being of the
23 people of the State of Illinois, as well as demonstrated
24 compliance with all applicable federal and State
25 environmental rules and regulations, including, but not
26 limited, to 35 Ill. Adm. Code Part 845 and any rules for

1 historic fill of coal combustion residuals, including any
2 rules finalized in Subdocket A of Illinois Pollution
3 Control Board docket R2020-019.

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

1 conventional coal-fired electric generating facility on June
2 1, 2009 (the effective date of Public Act 95-1027).

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

19 "Clean coal SNG facility" means a facility that uses a
20 gasification process to produce substitute natural gas, that
21 sequesters at least 90% of the total carbon dioxide emissions
22 that the facility would otherwise emit, that uses at least 90%
23 coal as a feedstock, with all such coal having a high
24 bituminous rank and greater than 1.7 pounds of sulfur per
25 million Btu content, and that has a valid and effective permit
26 to construct emission sources and air pollution control

1 equipment and approval with respect to the federal regulations
2 for Prevention of Significant Deterioration of Air Quality
3 (PSD) for the plant pursuant to the federal Clean Air Act;
4 provided, however, a clean coal SNG brownfield facility shall
5 not be a clean coal SNG facility.

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

8 "Commission" means the Illinois Commerce Commission.

9 "Community renewable generation project" means an electric
10 generating facility that:

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

15 (2) is interconnected at the distribution system level
16 of an electric utility as defined in this Section, a
17 municipal utility as defined in this Section that owns or
18 operates electric distribution facilities, a public
19 utility as defined in Section 3-105 of the Public
20 Utilities Act, or an electric cooperative, as defined in
21 Section 3-119 of the Public Utilities Act;

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

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

26 "Costs incurred in connection with the development and

1 construction of a facility" means:

2 (1) the cost of acquisition of all real property,
3 fixtures, and improvements in connection therewith and
4 equipment, personal property, and other property, rights,
5 and easements acquired that are deemed necessary for the
6 operation and maintenance of the facility;

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

9 (3) all origination, commitment, utilization,
10 facility, placement, underwriting, syndication, credit
11 enhancement, and rating agency fees;

12 (4) engineering, design, procurement, consulting,
13 legal, accounting, title insurance, survey, appraisal,
14 escrow, trustee, collateral agency, interest rate hedging,
15 interest rate swap, capitalized interest, contingency, as
16 required by lenders, and other financing costs, and other
17 expenses for professional services; and

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

26 "Delivery services" has the same definition as found in

1 Section 16-102 of the Public Utilities Act.

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

5 "Department" means the Department of Commerce and Economic
6 Opportunity.

7 "Director" means the Director of the Illinois Power
8 Agency.

9 "Demand-response" means measures that decrease peak
10 electricity demand or shift demand from peak to off-peak
11 periods.

12 "Distributed renewable energy generation device" means a
13 device that is:

14 (1) powered by wind, solar thermal energy,
15 photovoltaic cells or panels, biodiesel, crops and
16 untreated and unadulterated organic waste biomass, tree
17 waste, and hydropower that does not involve new
18 construction of dams, waste heat to power systems, or
19 qualified combined heat and power systems;

20 (2) interconnected at the distribution system level of
21 either 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, or a rural
24 electric cooperative as defined in Section 3-119 of the
25 Public Utilities Act;

26 (3) located on the customer side of the customer's

1 electric meter and is primarily used to offset that
2 customer's electricity load; and

3 (4) (blank).

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

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

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

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

26 (2) environmental justice communities, as defined by

1 the Illinois Power Agency pursuant to the Illinois Power
2 Agency Act, where residents have historically been subject
3 to disproportionate burdens of pollution, including
4 pollution from the energy sector.

5 "Equity eligible persons" or "eligible persons" means
6 persons who would most benefit from equitable investments by
7 the State designed to combat discrimination, specifically:

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

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

19 (3) persons who were formerly incarcerated;

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

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

1 "Facility" means an electric generating unit or a
2 co-generating unit that produces electricity along with
3 related equipment necessary to connect the facility to an
4 electric transmission or distribution system.

5 "General contractor" means the entity or organization with
6 main responsibility for the building of a construction project
7 and who is the party signing the prime construction contract
8 for the project.

9 "Governmental aggregator" means one or more units of local
10 government that individually or collectively procure
11 electricity to serve residential retail electrical loads
12 located within its or their jurisdiction.

13 "High voltage direct current converter station" means the
14 collection of equipment that converts direct current energy
15 from a high voltage direct current transmission line into
16 alternating current using Voltage Source Conversion technology
17 and that is interconnected with transmission or distribution
18 assets located in Illinois.

19 "High voltage direct current renewable energy credit"
20 means a renewable energy credit associated with a renewable
21 energy resource where the renewable energy resource has
22 entered into a contract to transmit the energy associated with
23 such renewable energy credit over high voltage direct current
24 transmission facilities.

25 "High voltage direct current transmission facilities"
26 means the collection of installed equipment that converts

1 alternating current energy in one balancing authority location
2 to direct current and transmits that direct current energy to
3 a high voltage direct current converter station in another
4 balancing authority using Voltage Source Conversion
5 technology. "High voltage direct current transmission
6 facilities" includes the high voltage direct current converter
7 station itself and associated high voltage direct current
8 transmission lines. Notwithstanding the preceding, ~~after~~
9 ~~September 15, 2021 (the effective date of Public Act 102-662),~~
10 an otherwise qualifying collection of equipment does not
11 qualify as high voltage direct current transmission facilities
12 unless either: (1) its developer entered into a project labor
13 agreement, is capable of transmitting electricity at 525
14 kilovolts 525kv with an Illinois converter station located and
15 interconnected in the region of the PJM Interconnection, LLC,
16 and the system does not operate as a public utility, as that
17 term is defined in Section 3-105 of the Public Utilities Act
18 serving more than 100,000 customers as of January 1, 2021; or
19 (2) its developer entered into a project labor agreement, the
20 project is capable of transmitting electricity at 600
21 kilovolts or above and has a converter station that is located
22 in Illinois or in a state adjacent to Illinois and is
23 interconnected to PJM Interconnection, LLC, the Midcontinent
24 Independent System Operator, Inc., or their successors.

25 "Hydropower" means any method of electricity generation or
26 storage that results from the flow of water, including

1 impoundment facilities, diversion facilities, and pumped
2 storage facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (5) provisions for minorities and women, as defined
25 under the Business Enterprise for Minorities, Women, and
26 Persons with Disabilities Act, setting forth goals for

1 apprenticeship hours to be performed by minorities and
2 women and setting forth goals for total hours to be
3 performed by underrepresented minorities and women.

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

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

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

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

23 "Renewable energy credit" means a tradable credit that
24 represents the environmental attributes of one megawatt hour
25 of energy produced from a renewable energy resource.

26 "Renewable energy resources" includes energy and its

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

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

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

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

14 "Service area" has the same definition as found in Section
15 16-102 of the Public Utilities Act.

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

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

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

7 "Strike price" means a contract price for energy and
8 renewable energy credits from a new utility-scale wind project
9 or a new utility-scale photovoltaic project or a contract
10 price for high voltage direct current renewable energy credits
11 as defined in item (iii-5) of subparagraph (G) of paragraph
12 (1) of subsection (c) of Section 1-75 of this Act.

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 3855/1-75)

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

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

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

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

26 In accordance with subsection (c-5) of this Section, the

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

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

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

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

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

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

1 (E) expertise in credit protocols and familiarity
2 with contract protocols;

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

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

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

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

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

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

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

24 (E) expertise in credit and contract protocols;

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

1 (G) the absence of a conflict of interest and
2 inappropriate bias for or against potential bidders or
3 the affected electric utilities.

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

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

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

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

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

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

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

24 (b) The experts or expert consulting firms retained by the
25 Agency shall, as appropriate, prepare procurement plans, and
26 conduct a competitive procurement process as prescribed in

1 Section 16-111.5 of the Public Utilities Act, to ensure
2 adequate, reliable, affordable, efficient, and environmentally
3 sustainable electric service at the lowest total cost over
4 time, taking into account any benefits of price stability, for
5 eligible retail customers of electric utilities that on
6 December 31, 2005 provided electric service to at least
7 100,000 customers in the State of Illinois, and for eligible
8 Illinois retail customers of small multi-jurisdictional
9 electric utilities that (i) on December 31, 2005 served less
10 than 100,000 customers in Illinois and (ii) request a
11 procurement plan for their Illinois jurisdictional load.

12 (c) Renewable portfolio standard.

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

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

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

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

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

24 For the delivery year beginning June 1, 2018, the
25 procurement plan shall attempt to include, subject to the
26 prioritization outlined in this subparagraph (B),

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

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

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

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

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

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

1 3% from brownfield site photovoltaic projects that are
2 not community renewable generation projects. High
3 voltage direct current renewable energy credits
4 procured under item (ii-5) shall not be counted toward
5 the procurement requirements of this item.

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

25 (ii) In any given delivery year, if forecasted
26 expenses are less than the maximum budget available

1 under subparagraph (E) of this paragraph (1), the
2 Agency shall continue to procure new renewable energy
3 credits until that budget is exhausted in the manner
4 outlined in item (i) of this subparagraph (C).

5 (ii-5) At least 3,000,000 high voltage direct
6 current renewable energy credits shall be procured
7 under item (iii-5) of subparagraph (G), delivered
8 annually beginning in 2028, or a later date designated
9 by the Agency, subject to availability; at least
10 6,000,000 high voltage direct current renewable energy
11 credits shall be procured under item (iii-5) of
12 subparagraph (G), delivered annually beginning in
13 2030, or a later date designated by the Agency,
14 subject to availability; and at least 9,000,000 high
15 voltage direct current renewable energy credits shall
16 be procured under item (iii-5) of subparagraph (G),
17 delivered annually beginning in 2035, or a later date
18 designated by the Agency, subject to availability.

19 (iii) For purposes of this Section:

20 "New wind projects" means wind renewable energy
21 facilities that are energized after June 1, 2017 for
22 the delivery year commencing June 1, 2017.

23 "New photovoltaic projects" means photovoltaic
24 renewable energy facilities that are energized after
25 June 1, 2017. Photovoltaic projects developed under
26 Section 1-56 of this Act shall not apply towards the

1 new photovoltaic project requirements in this
2 subparagraph (C).

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

15 (D) Renewable energy credits shall be cost effective.
16 For purposes of this subsection (c), "cost effective"
17 means that the costs of procuring renewable energy
18 resources do not cause the limit stated in subparagraph
19 (E) of this paragraph (1) to be exceeded and, for
20 renewable energy credits procured through a competitive
21 procurement event, do not exceed benchmarks based on
22 market prices for like products in the region. For
23 purposes of this subsection (c), "like products" means
24 contracts for renewable energy credits from the same or
25 substantially similar technology, same or substantially
26 similar vintage (new or existing), the same or

1 substantially similar quantity, and the same or
2 substantially similar contract length and structure.
3 Benchmarks shall reflect development, financing, or
4 related costs resulting from requirements imposed through
5 other provisions of State law, including, but not limited
6 to, requirements in subparagraphs (P) and (Q) of this
7 paragraph (1) and the Renewable Energy Facilities
8 Agricultural Impact Mitigation Act. Confidential
9 benchmarks shall be developed by the procurement
10 administrator, in consultation with the Commission staff,
11 Agency staff, and the procurement monitor and shall be
12 subject to Commission review and approval. If price
13 benchmarks for like products in the region are not
14 available, the procurement administrator shall establish
15 price benchmarks based on publicly available data on
16 regional technology costs and expected current and future
17 regional energy prices. The benchmarks in this Section
18 shall not be used to curtail or otherwise reduce
19 contractual obligations entered into by or through the
20 Agency prior to June 1, 2017 (the effective date of Public
21 Act 99-906).

22 (E) For purposes of this subsection (c), the required
23 procurement of cost-effective renewable energy resources
24 for a particular year commencing prior to June 1, 2017
25 shall be measured as a percentage of the actual amount of
26 electricity (megawatt-hours) supplied by the electric

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

17 Notwithstanding the requirements of this subsection
18 (c), the total of renewable energy resources procured
19 under the procurement plan for any single year shall be
20 subject to the limitations of this subparagraph (E),
21 except for high voltage direct current renewable energy
22 credits to the extent compensated using funds collected
23 through a tariffed charge authorized by subsection (i-10)
24 of Section 16-108 of the Public Utilities Act. Such
25 procurement shall be reduced for all retail customers
26 based on the amount necessary to limit the annual

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

26 (F) If the limitation on the amount of renewable

1 energy resources procured in subparagraph (E) of this
2 paragraph (1) prevents the Agency from meeting all of the
3 goals in this subsection (c), the Agency's long-term plan
4 shall prioritize compliance with the requirements of this
5 subsection (c) regarding renewable energy credits in the
6 following order:

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

9 (i-5) funding for the Illinois Solar for All
10 Program, as described in subparagraph (O) of this
11 paragraph (1);

12 (ii) renewable energy credits necessary to comply
13 with the new wind and new photovoltaic procurement
14 requirements described in items (i) through (iii) of
15 subparagraph (C) of this paragraph (1); and

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

18 (G) The following provisions shall apply to the
19 Agency's procurement of renewable energy credits under
20 this subsection (c):

21 (i) Notwithstanding whether a long-term renewable
22 resources procurement plan has been approved, the
23 Agency shall conduct an initial forward procurement
24 for renewable energy credits from new utility-scale
25 wind projects within 160 days after June 1, 2017 (the
26 effective date of Public Act 99-906). For the purposes

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

18 (ii) Notwithstanding whether a long-term renewable
19 resources procurement plan has been approved, the
20 Agency shall conduct an initial forward procurement
21 for renewable energy credits from new utility-scale
22 solar projects and brownfield site photovoltaic
23 projects within one year after June 1, 2017 (the
24 effective date of Public Act 99-906). For the purposes
25 of this initial forward procurement, the Agency shall
26 solicit 15-year contracts for delivery of 1,000,000

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

19 (iii) Notwithstanding whether the Commission has
20 approved the periodic long-term renewable resources
21 procurement plan revision described in Section
22 16-111.5 of the Public Utilities Act, the Agency shall
23 conduct at least one subsequent forward procurement
24 for renewable energy credits from new utility-scale
25 wind projects, new utility-scale solar projects, and
26 new brownfield site photovoltaic projects within 240

1 days after the effective date of this amendatory Act
2 of the 102nd General Assembly in quantities necessary
3 to meet the requirements of subparagraph (C) of this
4 paragraph (1) through the delivery year beginning June
5 1, 2021.

6 (iii-5) Notwithstanding whether the Commission has
7 approved the periodic long-term renewable resources
8 procurement plan revision described in Section
9 16-111.5 of the Public Utilities Act, the Agency shall
10 conduct at least one forward procurement for high
11 voltage direct current renewable energy credits within
12 240 days after the effective date of this amendatory
13 Act of the 103rd General Assembly, in quantities
14 necessary to meet the requirements of item (ii-5) of
15 subparagraph (C) of paragraph (1) of this subsection
16 (c), as follows:

17 (1) The Agency shall structure procurement and
18 contract design of high voltage direct current
19 renewable energy credits in a manner that is
20 substantially similar to the methods used for
21 indexed renewable energy credits, as described in
22 item (v) of this subparagraph (G), except as
23 otherwise required by this item (iii-5).

24 (2) Each bid shall be made by, or on behalf of,
25 a generation facility at a single location, or a
26 portion of that generation facility, that is a

1 utility-scale wind project or a utility-scale
2 solar project energized or repowered after the
3 effective date of this amendatory Act of the 103rd
4 General Assembly. Nothing prohibits 2 or more
5 separate portions of the same generating facility
6 or 2 or more separate generating facilities from
7 issuing separate bids while using the same
8 pre-qualified high voltage direct current
9 transmission facility to qualify for high voltage
10 direct current renewable energy credits. Any third
11 party may bid on behalf of one or more generation
12 facilities or a portion of that generation
13 facility if the third party demonstrates to the
14 Agency that it has the authority to bid for the
15 generation facilities or a portion of that
16 generation facility and that the third party has
17 the authority to transfer or cause to be
18 transferred title to renewable energy credits
19 generated by the generation facilities or a
20 portion of that generation facility.

21 (3) Each bid shall include a strike price and
22 total target delivery quantity over the life of
23 the contract and a description of plans to
24 maximize all project revenues and subtract those
25 revenues from the total amount owed under the high
26 voltage direct current renewable energy credit

1 contract, including any revenues a project may
2 receive as described in subitem (12) of this item
3 (iii-5). The Agency, the Commission, the
4 procurement administrator, and the procurement
5 monitor shall exclusively evaluate each bid based
6 only on the strike price and delivery quantity,
7 provided that the Agency shall only allow one or
8 more generating facilities or portions thereof to
9 bid if they meet qualification standards,
10 including identifying the high voltage direct
11 current transmission facility transmitting the
12 energy associated with the high voltage direct
13 current renewable energy credits, submitting an
14 equity plan described in subitem (15) of this item
15 (iii-5), and providing evidence that the high
16 voltage direct current transmission facility
17 connects or will connect 2 separate balancing
18 authorities. The Agency, the Commission, the
19 procurement administrator, and the procurement
20 monitor shall assume that the strike price
21 includes costs to transmit on the high voltage
22 direct current transmission facilities associated
23 with the bid.

24 (4) The standard contracts shall be for 25
25 years. In creating the standard contracts, the
26 Agency shall first ask potential bidders to

1 identify material differences with the indexed
2 renewable energy credit contract used for other
3 procurements.

4 (5) Settlement of the index price shall be, at
5 the election of the bidder, against either the
6 node into which the applicable high voltage direct
7 current transmission facility interconnects or the
8 Illinois zone of Midcontinent Independent System
9 Operator, Inc., or PJM Interconnection, LLC, into
10 which the high voltage direct current transmission
11 facility transmits.

12 (6) Payment to a winning bidder shall be
13 monthly, and the payment shall be calculated
14 according to the following formula:

15 (A) the sum across all hours over the
16 applicable monthly period of the strike price
17 bid by the winning bidder, subject to subitem
18 (14) of this item (iii-5), minus the index
19 price, which for the purposes of this subitem
20 (6) shall be the hourly nodal real-time energy
21 price at a node designated by the winning
22 bidder, multiplied by the energy generation
23 during that hour; and

24 (B) subtracting from the cumulative amount
25 calculated under subdivision (A) any capacity
26 payment actually made to the generating unit

1 for its participation in the Midcontinent
2 Independent System Operator, Inc., PJM
3 Interconnection, LLC, or a bilateral capacity
4 transaction as described in subitem (12) of
5 this item (iii-5).

6 The Agency, the Commission, the procurement
7 administrator, and the procurement monitor shall
8 create a confidential benchmark to evaluate a bid
9 by assuming that the strike price includes the
10 cost of transmission over a pre-qualified high
11 voltage direct current transmission facility.

12 Payments shall be made on a monthly basis for
13 high voltage direct current renewable energy
14 credits actually delivered, not to exceed, on a
15 3-year rolling average basis, 120% of the delivery
16 quantity during that 3-year rolling period.

17 (7) The Agency shall hold a supplemental
18 procurement event within 150 days after the
19 results of each procurement, as needed, to procure
20 the remaining amount of high voltage direct
21 current renewable energy credits so that the total
22 procured is within 5% of the amount of high
23 voltage direct current renewable energy credits to
24 be delivered annually, described in item (ii-5) of
25 subparagraph (C) of paragraph (1) of this
26 subsection (c).

1 (8) The primary funding source for contracts
2 entered into under this item (iii-5) shall be the
3 tariffs proposed and approved under subsection
4 (i-10) of Section 16-108 of the Public Utilities
5 Act.

6 (9) Prior to a bidding event, the Agency shall
7 pre-qualify high voltage direct current
8 transmission facilities, including high voltage
9 direct current transmission facilities that are
10 under development at the time of the procurement.
11 In order to pre-qualify as a high voltage direct
12 current transmission facility, the owner or
13 operator of a high voltage direct current
14 transmission facility or a generating unit, or a
15 third party on its behalf, shall provide the
16 Agency with evidence that the high voltage direct
17 current transmission facility:

18 (A) has submitted an attestation that the
19 high voltage direct current transmission
20 facility was or will be constructed under a
21 project labor agreement signed by 2 or more
22 construction crafts in compliance with the
23 obligations under item (2) of subparagraph (Q)
24 of this paragraph (1);

25 (B) has submitted one or more equity
26 plans;

1 (C) is not an electric utility as that
2 term is defined in Section 3-105 of the Public
3 Utilities Act and serving more than 100,000
4 customers as of January 1, 2021;

5 (D) provides evidence that the high
6 voltage direct current transmission line
7 connects one or more independent system
8 operators or regional transmission
9 organizations; and

10 (E) otherwise meets the definition of a
11 high voltage direct current transmission
12 facility.

13 Not less than 20 business days before the
14 initial applicant submission for the procurement
15 event described in this item (iii-5), the Agency
16 shall provide a publicly available list of high
17 voltage direct current transmission facilities
18 that have been pre-qualified.

19 (10) As part of the bidding process, each
20 generation facility shall provide evidence that
21 the generation facility has or will have a right
22 to transmit over a pre-qualified high voltage
23 direct current transmission facility a sufficient
24 quantity of energy to fulfill its bid quantity
25 based on an estimated capacity factor and an
26 estimated or actual nameplate capacity.

1 (11) The Agency may require collateral prior
2 to signing an indexed renewable energy credit
3 contract under this item (iii-5), not to exceed
4 \$1,000 per megawatt of proposed nameplate capacity
5 of the generation unit, and collateral after the
6 signing of the indexed renewable energy credit
7 contract, but prior to delivery of the first high
8 voltage direct current indexed renewable energy
9 credit, not to exceed \$4 per high voltage direct
10 current renewable energy credit projected for
11 delivery in the initial year of operation.

12 (12) As part of the bidding process, the
13 applicant shall commit that not less than the
14 prevailing wage, as determined under the
15 Prevailing Wage Act, was or will be paid to
16 employees who are engaged in construction
17 activities associated with the selected project,
18 and that on or before the commercial operation
19 date of the facility, the applicant shall file a
20 report with the Agency certifying that the
21 requirements of this paragraph (12) have been met.

22 (13) Each generation facility, or portion
23 thereof, taking part in the bidding process shall
24 demonstrate to the Agency's satisfaction that the
25 generation facility, or portion thereof, meets the
26 qualifications of a capacity resource as

1 designated by Midcontinent Independent System
2 Operator, Inc. or PJM Interconnection, LLC, or
3 their successors.

4 (14) Notwithstanding any other provision of
5 law, a contract signed by a winning bidder and the
6 electric utility counterparties may, at the
7 request of the winning bidder, be renegotiated
8 with the Agency to reflect a change in conditions.
9 If the Agency concludes that a proposed amendment
10 to the contract reflects a change in conditions
11 that has occurred since the date of the bid,
12 whether or not such changes were foreseeable, the
13 Agency or the winning bidder shall submit such
14 amendment to the Commission for approval. Upon
15 approval, or approval with modifications, each
16 utility counterparty shall execute the amendment
17 not less than 7 calendar days after delivery by
18 the Agency.

19 (15) Each renewable energy credit contract
20 shall include a force majeure provision that
21 addresses conditions related to the generator and
22 the high voltage direct current transmission
23 facility, including curtailment and dispatch
24 limitations.

25 (16) The owner or operator of a high voltage
26 direct current transmission facility, including a

1 high voltage direct current transmission facility
2 that is under development, shall, as a condition
3 of qualification or pre-qualification under this
4 item (iii-5), develop and maintain an equity plan.
5 The equity plan shall include:

6 (A) the owner's numeric goals for the
7 diversity composition of its suppliers, with a
8 plan to make at least 10% of expenditures on
9 suppliers to suppliers that are:

10 (i) subcontractors or vendors
11 registered under the Business Enterprise
12 Program or a successor program
13 administered by the Department of Central
14 Management;

15 (ii) subcontractors or vendors owned
16 by minority persons, women, or persons
17 with disability, as defined in Section 2
18 of the Business Enterprise for Minorities,
19 Women, and Persons with Disabilities Act,
20 LGBTQ-owned business enterprises,
21 veteran-owned business enterprises, and
22 business enterprises located in an equity
23 investment eligible community; and

24 (iii) equity eligible contractors;

25 (B) a description of efforts to
26 incentivize a diverse project workforce; and

1 (C) a community benefits plan that
2 outlines economic and social benefits,
3 including opportunities for investment in
4 communities located along the route of the
5 high voltage direct current transmission line
6 and actions taken to mitigate or reduce any
7 environmental and public health impacts; the
8 community benefits plan may consider donations
9 or grants to community-based organizations
10 servng equity investment eligible
11 communities.

12 Each owner of a pre-qualified high voltage
13 direct current transmission facility with an
14 equity plan shall track expenditures made in
15 accordance with the equity plan and shall report
16 the expenditures to the Commission in compliance
17 with reporting obligations under Section 5-117 of
18 the Public Utilities Act, provided that nothing
19 prohibits the high voltage direct current
20 transmission facility from requesting confidential
21 treatment of information in such report or any
22 supporting evidence.

23 Notwithstanding subsection (c-10) of this
24 Section, the equity plan shall be the exclusive
25 source of obligations related to equity eligible
26 persons and equity eligible contractors related to

1 the development, construction, or operation of the
2 high voltage direct current transmission line or
3 participating new utility-scale solar or new
4 utility-scale wind project.

5 (iv) Notwithstanding whether the Commission has
6 approved the periodic long-term renewable resources
7 procurement plan revision described in Section
8 16-111.5 of the Public Utilities Act, the Agency shall
9 open capacity for each category in the Adjustable
10 Block program within 90 days after the effective date
11 of this amendatory Act of the 102nd General Assembly
12 manner:

13 (1) The Agency shall open the first block of
14 annual capacity for the category described in item
15 (i) of subparagraph (K) of this paragraph (1). The
16 first block of annual capacity for item (i) shall
17 be for at least 75 megawatts of total nameplate
18 capacity. The price of the renewable energy credit
19 for this block of capacity shall be 4% less than
20 the price of the last open block in this category.
21 Projects on a waitlist shall be awarded contracts
22 first in the order in which they appear on the
23 waitlist. Notwithstanding anything to the
24 contrary, for those renewable energy credits that
25 qualify and are procured under this subitem (1) of
26 this item (iv), the renewable energy credit

1 delivery contract value shall be paid in full,
2 based on the estimated generation during the first
3 15 years of operation, by the contracting
4 utilities at the time that the facility producing
5 the renewable energy credits is interconnected at
6 the distribution system level of the utility and
7 verified as energized and in compliance by the
8 Program Administrator. The electric utility shall
9 receive and retire all renewable energy credits
10 generated by the project for the first 15 years of
11 operation. Renewable energy credits generated by
12 the project thereafter shall not be transferred
13 under the renewable energy credit delivery
14 contract with the counterparty electric utility.

15 (2) The Agency shall open the first block of
16 annual capacity for the category described in item
17 (ii) of subparagraph (K) of this paragraph (1).
18 The first block of annual capacity for item (ii)
19 shall be for at least 75 megawatts of total
20 nameplate capacity.

21 (A) The price of the renewable energy
22 credit for any project on a waitlist for this
23 category before the opening of this block
24 shall be 4% less than the price of the last
25 open block in this category. Projects on the
26 waitlist shall be awarded contracts first in

1 the order in which they appear on the
2 waitlist. Any projects that are less than or
3 equal to 25 kilowatts in size on the waitlist
4 for this capacity shall be moved to the
5 waitlist for paragraph (1) of this item (iv).
6 Notwithstanding anything to the contrary,
7 projects that were on the waitlist prior to
8 opening of this block shall not be required to
9 be in compliance with the requirements of
10 subparagraph (Q) of this paragraph (1) of this
11 subsection (c). Notwithstanding anything to
12 the contrary, for those renewable energy
13 credits procured from projects that were on
14 the waitlist for this category before the
15 opening of this block 20% of the renewable
16 energy credit delivery contract value, based
17 on the estimated generation during the first
18 15 years of operation, shall be paid by the
19 contracting utilities at the time that the
20 facility producing the renewable energy
21 credits is interconnected at the distribution
22 system level of the utility and verified as
23 energized by the Program Administrator. The
24 remaining portion shall be paid ratably over
25 the subsequent 4-year period. The electric
26 utility shall receive and retire all renewable

1 energy credits generated by the project during
2 the first 15 years of operation. Renewable
3 energy credits generated by the project
4 thereafter shall not be transferred under the
5 renewable energy credit delivery contract with
6 the counterparty electric utility.

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

22 (3) For opening the first 2 blocks of annual
23 capacity for projects participating in item (iii)
24 of subparagraph (K) of paragraph (1) of subsection
25 (c), projects shall be selected exclusively from
26 those projects on the ordinal waitlists of

1 community renewable generation projects
2 established by the Agency based on the status of
3 those ordinal waitlists as of December 31, 2020,
4 and only those projects previously determined to
5 be eligible for the Agency's April 2019 community
6 solar project selection process.

7 The first 2 blocks of annual capacity for item
8 (iii) shall be for 250 megawatts of total
9 nameplate capacity, with both blocks opening
10 simultaneously under the schedule outlined in the
11 paragraphs below. Projects shall be selected as
12 follows:

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

20 (B) Contract awards for waitlisted
21 projects shall be allocated proportionate to
22 the total nameplate capacity amount across
23 both ordinal waitlists associated with that
24 applicant firm or its affiliates, subject to
25 the following conditions.

26 (i) Each applicant firm having a

1 waitlisted project eligible for selection
2 shall receive no less than 500 kilowatts
3 in awarded capacity across all groups, and
4 no approved vendor may receive more than
5 20% of each Group's waitlist allocation.

6 (ii) Each applicant firm, upon
7 receiving an award of program capacity
8 proportionate to its waitlisted capacity,
9 may then determine which waitlisted
10 projects it chooses to be selected for a
11 contract award up to that capacity amount.

12 (iii) Assuming all other program
13 requirements are met, applicant firms may
14 adjust the nameplate capacity of applicant
15 projects without losing waitlist
16 eligibility, so long as no project is
17 greater than 2,000 kilowatts in size.

18 (iv) Assuming all other program
19 requirements are met, applicant firms may
20 adjust the expected production associated
21 with applicant projects, subject to
22 verification by the Program Administrator.

23 (C) After a review of affiliate
24 information and the current ordinal waitlists,
25 the Agency shall announce the nameplate
26 capacity award amounts associated with

1 applicant firms no later than 90 days after
2 the effective date of this amendatory Act of
3 the 102nd General Assembly.

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

23 (E) The renewable energy credit delivery
24 contract shall be subject to the contract and
25 payment terms outlined in item (iv) of
26 subparagraph (L) of this subsection (c).

1 Contract instruments used for this
2 subparagraph shall contain the following
3 terms:

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

15 (ii) A requirement that a minimum of
16 50% of subscribers to the project's
17 nameplate capacity be residential or small
18 commercial customers with subscriptions of
19 below 25 kilowatts in size;

20 (iii) Permission for the ability of a
21 contract holder to substitute projects
22 with other waitlisted projects without
23 penalty should a project receive a
24 non-binding estimate of costs to construct
25 the interconnection facilities and any
26 required distribution upgrades associated

1 with that project of greater than 30 cents
2 per watt AC of that project's nameplate
3 capacity. In developing the applicable
4 contract instrument, the Agency may
5 consider whether other circumstances
6 outside of the control of the applicant
7 firm should also warrant project
8 substitution rights.

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

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

22 (4) The Agency shall open the first block of
23 annual capacity for the category described in item
24 (iv) of subparagraph (K) of this paragraph (1).
25 The first block of annual capacity for item (iv)
26 shall be for at least 50 megawatts of total

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

13 (5) The Agency shall open the equivalent of 2
14 years of annual capacity for the category
15 described in item (v) of subparagraph (K) of this
16 paragraph (1). The first block of annual capacity
17 for item (v) shall be for at least 10 megawatts of
18 total nameplate capacity. Notwithstanding the
19 provisions of item (v) of subparagraph (K) of this
20 paragraph (1), for the purpose of this initial
21 block, the agency shall accept new project
22 applications intended to increase the diversity of
23 areas hosting community solar projects, the
24 business models of projects, and the size of
25 projects, as described by the Agency in its
26 long-term renewable resources procurement plan

1 that is approved as of the effective date of this
2 amendatory Act of the 102nd General Assembly.
3 Projects in this category shall be subject to the
4 contract terms outlined in item (iii) of
5 subsection (L) of this paragraph (1).

6 (6) The Agency shall open the first blocks of
7 annual capacity for the category described in item
8 (vi) of subparagraph (K) of this paragraph (1),
9 with allocations of capacity within the block
10 generally matching the historical share of block
11 capacity allocated between the category described
12 in items (i) and (ii) of subparagraph (K) of this
13 paragraph (1). The first two blocks of annual
14 capacity for item (vi) shall be for at least 75
15 megawatts of total nameplate capacity. The price
16 of renewable energy credits for the blocks of
17 capacity shall be 4% less than the price of the
18 last open blocks in the categories described in
19 items (i) and (ii) of subparagraph (K) of this
20 paragraph (1). Pricing for future blocks of annual
21 capacity for this category may be adjusted in the
22 Agency's second revision to its Long-Term
23 Renewable Resources Procurement Plan. Projects in
24 this category shall be subject to the applicable
25 contract terms outlined in items (ii) and (iii) of
26 subparagraph (L) of this paragraph (1).

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

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

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

26 (3) To ensure funding in the annual budget

1 established under subparagraph (E) for indexed
2 renewable energy credit procurements for each year
3 of the term of such contracts, which must have a
4 minimum tenure of 20 calendar years, the
5 procurement administrator, Agency, Commission
6 staff, and procurement monitor shall quantify the
7 annual cost of the contract by utilizing an
8 industry-standard, third-party forward price curve
9 for energy at the appropriate hub or load zone,
10 including the estimated magnitude and timing of
11 the price effects related to federal carbon
12 controls. Each forward price curve shall contain a
13 specific value of the forecasted market price of
14 electricity for each annual delivery year of the
15 contract. For procurement planning purposes, the
16 impact on the annual budget for the cost of
17 indexed renewable energy credits for each delivery
18 year shall be determined as the expected annual
19 contract expenditure for that year, equaling the
20 difference between (i) the sum across all relevant
21 contracts of the applicable strike price
22 multiplied by contract quantity and (ii) the sum
23 across all relevant contracts of the forward price
24 curve for the applicable load zone for that year
25 multiplied by contract quantity. The contracting
26 utility shall not assume an obligation in excess

1 of the estimated annual cost of the contracts for
2 indexed renewable energy credits. Forward curves
3 shall be revised on an annual basis as updated
4 forward price curves are released and filed with
5 the Commission in the proceeding approving the
6 Agency's most recent long-term renewable resources
7 procurement plan. If the expected contract spend
8 is higher or lower than the total quantity of
9 contracts multiplied by the forward price curve
10 value for that year, the forward price curve shall
11 be updated by the procurement administrator, in
12 consultation with the Agency, Commission staff,
13 and procurement monitors, using then-currently
14 available price forecast data and additional
15 budget dollars shall be obligated or reobligated
16 as appropriate.

17 (4) To ensure that indexed renewable energy
18 credit prices remain predictable and affordable,
19 the Agency may consider the institution of a price
20 collar on REC prices paid under indexed renewable
21 energy credit procurements establishing floor and
22 ceiling REC prices applicable to indexed REC
23 contract prices. Any price collars applicable to
24 indexed REC procurements shall be proposed by the
25 Agency through its long-term renewable resources
26 procurement plan.

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

11 (vii) On and after the effective date of this
12 amendatory Act of the 103rd General Assembly, for all
13 procurements of renewable energy credits from
14 hydropower facilities, the Agency shall establish
15 contract terms designed to optimize existing
16 hydropower facilities through modernization or
17 retooling and establish new hydropower facilities at
18 existing dams. Procurements made under this item (vii)
19 shall prioritize projects located in designated
20 environmental justice communities, as defined in
21 subsection (b) of Section 1-56 of this Act, or in
22 projects located in units of local government with
23 median incomes that do not exceed 82% of the median
24 income of the State.

25 (H) The procurement of renewable energy resources for
26 a given delivery year shall be reduced as described in

1 this subparagraph (H) if an alternative retail electric
2 supplier meets the requirements described in this
3 subparagraph (H).

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

17 The informational filing shall identify each
18 facility that was eligible to satisfy the alternative
19 retail electric supplier's obligations under Section
20 16-115D of the Public Utilities Act as described in
21 this item (i).

22 (ii) For a given delivery year, the alternative
23 retail electric supplier may elect to supply its
24 retail customers with renewable energy credits from
25 the facility or facilities described in item (i) of
26 this subparagraph (H) that continue to be owned by the

1 alternative retail electric supplier.

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

17 For the delivery year beginning June 1, 2018,
18 the maximum amount of renewable energy credits to
19 be supplied by an alternative retail electric
20 supplier under this subparagraph (H) shall be 68%
21 multiplied by 25% multiplied by 14.5% multiplied
22 by the amount of metered electricity
23 (megawatt-hours) delivered by the alternative
24 retail electric supplier to Illinois retail
25 customers during the delivery year ending May 31,
26 2016.

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

15 For each delivery year, the total amount of
16 renewable energy credits supplied by all alternative
17 retail electric suppliers under this subparagraph (H)
18 shall not exceed 9% of the Illinois target renewable
19 energy credit quantity. The Illinois target renewable
20 energy credit quantity for the delivery year beginning
21 June 1, 2018 is 14.5% multiplied by the total amount of
22 metered electricity (megawatt-hours) delivered in the
23 delivery year immediately preceding that delivery
24 year, provided that the 14.5% shall increase by 1.5%
25 each delivery year thereafter to 25% by the delivery
26 year beginning June 1, 2025, and thereafter the 25%

1 value shall apply to each delivery year.

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

20 On or before April 1 of each year, the Agency shall
21 annually publish a report on its website that
22 identifies the aggregate amount of renewable energy
23 credits supplied by alternative retail electric
24 suppliers under this subparagraph (H).

25 (I) The Agency shall design its long-term renewable
26 energy procurement plan to maximize the State's interest

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

1 its residents based on the public interest criteria
2 described above. For the purposes of this Section,
3 renewable resources that are delivered via a high voltage
4 direct current transmission facilities ~~converter station~~
5 ~~located in Illinois~~ shall be deemed generated in Illinois
6 or an adjacent state at the time and location the energy is
7 converted to alternating current by the high voltage
8 direct current transmission facilities ~~converter station~~
9 if the high voltage direct current transmission line:

10 (i) after the effective date of this amendatory
11 Act of the 103rd ~~102nd~~ General Assembly, will be ~~was~~
12 constructed with a project labor agreement;

13 (ii) is capable of transmitting electricity at 525
14 kilovolts or above ~~525kv~~;

15 (iii) has a ~~an Illinois~~ converter station located
16 within or ~~and~~ interconnected with ~~in the region of the~~
17 PJM Interconnection, LLC, or Midcontinent Independent
18 System Operator, Inc.; ~~and~~ (iv) ~~does not operate as a~~
19 ~~public utility;~~ and (v) ~~if the high voltage direct~~
20 ~~current transmission line~~

21 (iv) was energized after June 1, 2023.

22 To ensure that the public interest criteria are applied to
23 the procurement and given full effect, the Agency's long-term
24 procurement plan shall describe in detail how each public
25 interest factor shall be considered and weighted for
26 facilities located in states adjacent to Illinois.

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

25 Notwithstanding the limitations of this subparagraph
26 (J), renewable energy credits sourced from generating

1 units that are constructed, purchased, owned, or leased by
2 an electric utility as part of an approved project,
3 program, or pilot under Section 1-56 of this Act shall be
4 eligible to be counted toward the renewable energy
5 requirements of this subsection (c), regardless of how the
6 costs of these units are recovered. As long as a
7 generating unit or an identifiable portion of a generating
8 unit has not had and does not have its costs recovered
9 through rates regulated by this State or any other state,
10 HVDC renewable energy credits associated with that
11 generating unit or identifiable portion thereof shall be
12 eligible to be counted toward the renewable energy
13 requirements of this subsection (c). If a generation
14 facility does not have its costs recovered through rates
15 regulated by this State or any other state, the high
16 voltage direct current renewable energy credits generated
17 by that generation facility are eligible to be counted
18 toward the renewable energy requirements of this
19 subsection without regard to cost recovery for the
20 associated high voltage direct current transmission
21 facilities.

22 (K) The long-term renewable resources procurement plan
23 developed by the Agency in accordance with subparagraph
24 (A) of this paragraph (1) shall include an Adjustable
25 Block program for the procurement of renewable energy
26 credits from new photovoltaic projects that are

1 distributed renewable energy generation devices or new
2 photovoltaic community renewable generation projects. The
3 Adjustable Block program shall be generally designed to
4 provide for the steady, predictable, and sustainable
5 growth of new solar photovoltaic development in Illinois.
6 To this end, the Adjustable Block program shall provide a
7 transparent annual schedule of prices and quantities to
8 enable the photovoltaic market to scale up and for
9 renewable energy credit prices to adjust at a predictable
10 rate over time. The prices set by the Adjustable Block
11 program can be reflected as a set value or as the product
12 of a formula.

13 The Adjustable Block program shall include for each
14 category of eligible projects for each delivery year: a
15 single block of nameplate capacity, a price for renewable
16 energy credits within that block, and the terms and
17 conditions for securing a spot on a waitlist once the
18 block is fully committed or reserved. Except as outlined
19 below, the waitlist of projects in a given year will carry
20 over to apply to the subsequent year when another block is
21 opened. Only projects energized on or after June 1, 2017
22 shall be eligible for the Adjustable Block program. For
23 each category for each delivery year the Agency shall
24 determine the amount of generation capacity in each block,
25 and the purchase price for each block, provided that the
26 purchase price provided and the total amount of generation

1 in all blocks for all categories shall be sufficient to
2 meet the goals in this subsection (c). The Agency shall
3 strive to issue a single block sized to provide for
4 stability and market growth. The Agency shall establish
5 program eligibility requirements that ensure that projects
6 that enter the program are sufficiently mature to indicate
7 a demonstrable path to completion. The Agency may
8 periodically review its prior decisions establishing the
9 amount of generation capacity in each block, and the
10 purchase price for each block, and may propose, on an
11 expedited basis, changes to these previously set values,
12 including but not limited to redistributing these amounts
13 and the available funds as necessary and appropriate,
14 subject to Commission approval as part of the periodic
15 plan revision process described in Section 16-111.5 of the
16 Public Utilities Act. The Agency may define different
17 block sizes, purchase prices, or other distinct terms and
18 conditions for projects located in different utility
19 service territories if the Agency deems it necessary to
20 meet the goals in this subsection (c).

21 The Adjustable Block program shall include the
22 following categories in at least the following amounts:

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

26 (ii) At least 20% from distributed renewable

1 energy generation devices with a nameplate capacity of
2 more than 25 kilowatts and no more than 5,000
3 kilowatts. The Agency may create sub-categories within
4 this category to account for the differences between
5 projects for small commercial customers, large
6 commercial customers, and public or non-profit
7 customers.

8 (iii) At least 30% from photovoltaic community
9 renewable generation projects. Capacity for this
10 category for the first 2 delivery years after the
11 effective date of this amendatory Act of the 102nd
12 General Assembly shall be allocated to waitlist
13 projects as provided in paragraph (3) of item (iv) of
14 subparagraph (G). Starting in the third delivery year
15 after the effective date of this amendatory Act of the
16 102nd General Assembly or earlier if the Agency
17 determines there is additional capacity needed for to
18 meet previous delivery year requirements, the
19 following shall apply:

20 (1) the Agency shall select projects on a
21 first-come, first-serve basis, however the Agency
22 may suggest additional methods to prioritize
23 projects that are submitted at the same time;

24 (2) projects shall have subscriptions of 25 kW
25 or less for at least 50% of the facility's
26 nameplate capacity and the Agency shall price the

1 renewable energy credits with that as a factor;

2 (3) projects shall not be colocated with one
3 or more other community renewable generation
4 projects, as defined in the Agency's first revised
5 long-term renewable resources procurement plan
6 approved by the Commission on February 18, 2020,
7 such that the aggregate nameplate capacity exceeds
8 5,000 kilowatts; and

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

14 (iv) At least 15% from distributed renewable
15 generation devices or photovoltaic community renewable
16 generation projects installed on public school land.
17 The Agency may create subcategories within this
18 category to account for the differences between
19 project size or location. Projects located within
20 environmental justice communities or within
21 Organizational Units that fall within Tier 1 or Tier 2
22 shall be given priority. Each of the Agency's periodic
23 updates to its long-term renewable resources
24 procurement plan to incorporate the procurement
25 described in this subparagraph (iv) shall also include
26 the proposed quantities or blocks, pricing, and

1 contract terms applicable to the procurement as
2 indicated herein. In each such update and procurement,
3 the Agency shall set the renewable energy credit price
4 and establish payment terms for the renewable energy
5 credits procured pursuant to this subparagraph (iv)
6 that make it feasible and affordable for public
7 schools to install photovoltaic distributed renewable
8 energy devices on their premises, including, but not
9 limited to, those public schools subject to the
10 prioritization provisions of this subparagraph. For
11 the purposes of this item (iv):

12 "Environmental Justice Community" shall have the
13 same meaning set forth in the Agency's long-term
14 renewable resources procurement plan;

15 "Organization Unit", "Tier 1" and "Tier 2" shall
16 have the meanings set for in Section 18-8.15 of the
17 School Code;

18 "Public schools" shall have the meaning set forth
19 in Section 1-3 of the School Code and includes public
20 institutions of higher education, as defined in the
21 Board of Higher Education Act.

22 (v) At least 5% from community-driven community
23 solar projects intended to provide more direct and
24 tangible connection and benefits to the communities
25 which they serve or in which they operate and,
26 additionally, to increase the variety of community

1 solar locations, models, and options in Illinois. As
2 part of its long-term renewable resources procurement
3 plan, the Agency shall develop selection criteria for
4 projects participating in this category. Nothing in
5 this Section shall preclude the Agency from creating a
6 selection process that maximizes community ownership
7 and community benefits in selecting projects to
8 receive renewable energy credits. Selection criteria
9 shall include:

10 (1) community ownership or community
11 wealth-building;

12 (2) additional direct and indirect community
13 benefit, beyond project participation as a
14 subscriber, including, but not limited to,
15 economic, environmental, social, cultural, and
16 physical benefits;

17 (3) meaningful involvement in project
18 organization and development by community members
19 or nonprofit organizations or public entities
20 located in or serving the community;

21 (4) engagement in project operations and
22 management by nonprofit organizations, public
23 entities, or community members; and

24 (5) whether a project is developed in response
25 to a site-specific RFP developed by community
26 members or a nonprofit organization or public

1 entity located in or serving the community.

2 Selection criteria may also prioritize projects

3 that:

4 (1) are developed in collaboration with or to
5 provide complementary opportunities for the Clean
6 Jobs Workforce Network Program, the Illinois
7 Climate Works Preapprenticeship Program, the
8 Returning Residents Clean Jobs Training Program,
9 the Clean Energy Contractor Incubator Program, or
10 the Clean Energy Primes Contractor Accelerator
11 Program;

12 (2) increase the diversity of locations of
13 community solar projects in Illinois, including by
14 locating in urban areas and population centers;

15 (3) are located in Equity Investment Eligible
16 Communities;

17 (4) are not greenfield projects;

18 (5) serve only local subscribers;

19 (6) have a nameplate capacity that does not
20 exceed 500 kW;

21 (7) are developed by an equity eligible
22 contractor; or

23 (8) otherwise meaningfully advance the goals
24 of providing more direct and tangible connection
25 and benefits to the communities which they serve
26 or in which they operate and increasing the

1 variety of community solar locations, models, and
2 options in Illinois.

3 For the purposes of this item (v):

4 "Community" means a social unit in which people
5 come together regularly to effect change; a social
6 unit in which participants are marked by a cooperative
7 spirit, a common purpose, or shared interests or
8 characteristics; or a space understood by its
9 residents to be delineated through geographic
10 boundaries or landmarks.

11 "Community benefit" means a range of services and
12 activities that provide affirmative, economic,
13 environmental, social, cultural, or physical value to
14 a community; or a mechanism that enables economic
15 development, high-quality employment, and education
16 opportunities for local workers and residents, or
17 formal monitoring and oversight structures such that
18 community members may ensure that those services and
19 activities respond to local knowledge and needs.

20 "Community ownership" means an arrangement in
21 which an electric generating facility is, or over time
22 will be, in significant part, owned collectively by
23 members of the community to which an electric
24 generating facility provides benefits; members of that
25 community participate in decisions regarding the
26 governance, operation, maintenance, and upgrades of

1 and to that facility; and members of that community
2 benefit from regular use of that facility.

3 Terms and guidance within these criteria that are
4 not defined in this item (v) shall be defined by the
5 Agency, with stakeholder input, during the development
6 of the Agency's long-term renewable resources
7 procurement plan. The Agency shall develop regular
8 opportunities for projects to submit applications for
9 projects under this category, and develop selection
10 criteria that gives preference to projects that better
11 meet individual criteria as well as projects that
12 address a higher number of criteria.

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

26 The Agency shall propose a payment structure for

1 contracts executed pursuant to this paragraph under
2 which, upon a demonstration of qualification or need,
3 applicant firms are advanced capital disbursed after
4 contract execution but before the contracted project's
5 energization. The amount or percentage of capital
6 advanced prior to project energization shall be
7 sufficient to both cover any increase in development
8 costs resulting from prevailing wage requirements or
9 project-labor agreements, and designed to overcome
10 barriers in access to capital faced by equity eligible
11 contractors. The amount or percentage of advanced
12 capital may vary by subcategory within this category
13 and by an applicant's demonstration of need, with such
14 levels to be established through the Long-Term
15 Renewable Resources Procurement Plan authorized under
16 subparagraph (A) of paragraph (1) of subsection (c) of
17 this Section.

18 Contracts developed featuring capital advanced
19 prior to a project's energization shall feature
20 provisions to ensure both the successful development
21 of applicant projects and the delivery of the
22 renewable energy credits for the full term of the
23 contract, including ongoing collateral requirements
24 and other provisions deemed necessary by the Agency,
25 and may include energization timelines longer than for
26 comparable project types. The percentage or amount of

1 capital advanced prior to project energization shall
2 not operate to increase the overall contract value,
3 however contracts executed under this subparagraph may
4 feature renewable energy credit prices higher than
5 those offered to similar projects participating in
6 other categories. Capital advanced prior to
7 energization shall serve to reduce the ratable
8 payments made after energization under items (ii) and
9 (iii) of subparagraph (L) or payments made for each
10 renewable energy credit delivery under item (iv) of
11 subparagraph (L).

12 (vii) The remaining capacity shall be allocated by
13 the Agency in order to respond to market demand. The
14 Agency shall allocate any discretionary capacity prior
15 to the beginning of each delivery year.

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

1 Notwithstanding anything to the contrary, as the
2 Agency increases the capacity in item (vi) to 40% over
3 time, the Agency may reduce the capacity of items (i)
4 through (v) proportionate to the capacity of the
5 categories of projects in item (vi), to achieve a balance
6 of project types.

7 The Adjustable Block program shall be designed to
8 ensure that renewable energy credits are procured from
9 projects in diverse locations and are not concentrated in
10 a few regional areas.

11 (L) Notwithstanding provisions for advancing capital
12 prior to project energization found in item (vi) of
13 subparagraph (K), the procurement of photovoltaic
14 renewable energy credits under items (i) through (vi) of
15 subparagraph (K) of this paragraph (1) shall otherwise be
16 subject to the following contract and payment terms:

17 (i) (Blank).

18 (ii) For those renewable energy credits that
19 qualify and are procured under item (i) of
20 subparagraph (K) of this paragraph (1), and any
21 similar category projects that are procured under item
22 (vi) of subparagraph (K) of this paragraph (1) that
23 qualify and are procured under item (vi), the contract
24 length shall be 15 years. The renewable energy credit
25 delivery contract value shall be paid in full, based
26 on the estimated generation during the first 15 years

1 of operation, by the contracting utilities at the time
2 that the facility producing the renewable energy
3 credits is interconnected at the distribution system
4 level of the utility and verified as energized and
5 compliant by the Program Administrator. The electric
6 utility shall receive and retire all renewable energy
7 credits generated by the project for the first 15
8 years of operation. Renewable energy credits generated
9 by the project thereafter shall not be transferred
10 under the renewable energy credit delivery contract
11 with the counterparty electric utility.

12 (iii) For those renewable energy credits that
13 qualify and are procured under item (ii) and (v) of
14 subparagraph (K) of this paragraph (1) and any like
15 projects similar category that qualify and are
16 procured under item (vi), the contract length shall be
17 15 years. 15% of the renewable energy credit delivery
18 contract value, based on the estimated generation
19 during the first 15 years of operation, shall be paid
20 by the contracting utilities at the time that the
21 facility producing the renewable energy credits is
22 interconnected at the distribution system level of the
23 utility and verified as energized and compliant by the
24 Program Administrator. The remaining portion shall be
25 paid ratably over the subsequent 6-year period. The
26 electric utility shall receive and retire all

1 renewable energy credits generated by the project for
2 the first 15 years of operation. Renewable energy
3 credits generated by the project thereafter shall not
4 be transferred under the renewable energy credit
5 delivery contract with the counterparty electric
6 utility.

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

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

1 (v) Each contract shall include provisions to
2 ensure the delivery of the estimated quantity of
3 renewable energy credits and ongoing collateral
4 requirements and other provisions deemed appropriate
5 by the Agency.

6 (vi) The utility shall be the counterparty to the
7 contracts executed under this subparagraph (L) that
8 are approved by the Commission under the process
9 described in Section 16-111.5 of the Public Utilities
10 Act. No contract shall be executed for an amount that
11 is less than one renewable energy credit per year.

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

20 (viii) Nothing in this Section shall require the
21 utility to advance any payment or pay any amounts that
22 exceed the actual amount of revenues anticipated to be
23 collected by the utility under paragraph (6) of this
24 subsection (c) and subsection (k) of Section 16-108 of
25 the Public Utilities Act inclusive of eligible funds
26 collected in prior years and alternative compliance

1 payments for use by the utility, and contracts
2 executed under this Section shall expressly
3 incorporate this limitation.

4 (ix) Notwithstanding other requirements of this
5 subparagraph (L), no modification shall be required to
6 Adjustable Block program contracts if they were
7 already executed prior to the establishment, approval,
8 and implementation of new contract forms as a result
9 of this amendatory Act of the 102nd General Assembly.

10 (x) Contracts may be assignable, but only to
11 entities first deemed by the Agency to have met
12 program terms and requirements applicable to direct
13 program participation. In developing contracts for the
14 delivery of renewable energy credits, the Agency shall
15 be permitted to establish fees applicable to each
16 contract assignment.

17 (M) The Agency shall be authorized to retain one or
18 more experts or expert consulting firms to develop,
19 administer, implement, operate, and evaluate the
20 Adjustable Block program described in subparagraph (K) of
21 this paragraph (1), and the Agency shall retain the
22 consultant or consultants in the same manner, to the
23 extent practicable, as the Agency retains others to
24 administer provisions of this Act, including, but not
25 limited to, the procurement administrator. The selection
26 of experts and expert consulting firms and the procurement

1 process described in this subparagraph (M) are exempt from
2 the requirements of Section 20-10 of the Illinois
3 Procurement Code, under Section 20-10 of that Code. The
4 Agency shall strive to minimize administrative expenses in
5 the implementation of the Adjustable Block program.

6 The Program Administrator may charge application fees
7 to participating firms to cover the cost of program
8 administration. Any application fee amounts shall
9 initially be determined through the long-term renewable
10 resources procurement plan, and modifications to any
11 application fee that deviate more than 25% from the
12 Commission's approved value must be approved by the
13 Commission as a long-term plan revision under Section
14 16-111.5 of the Public Utilities Act. The Agency shall
15 consider stakeholder feedback when making adjustments to
16 application fees and shall notify stakeholders in advance
17 of any planned changes.

18 In addition to covering the costs of program
19 administration, the Agency, in conjunction with its
20 Program Administrator, may also use the proceeds of such
21 fees charged to participating firms to support public
22 education and ongoing regional and national coordination
23 with nonprofit organizations, public bodies, and others
24 engaged in the implementation of renewable energy
25 incentive programs or similar initiatives. This work may
26 include developing papers and reports, hosting regional

1 and national conferences, and other work deemed necessary
2 by the Agency to position the State of Illinois as a
3 national leader in renewable energy incentive program
4 development and administration.

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

24 The Agency and its program administrators for both the
25 Adjustable Block program and the Illinois Solar for All
26 Program, consistent with the requirements of this

1 subsection (c) and subsection (b) of Section 1-56 of this
2 Act, shall propose the Adjustable Block program terms,
3 conditions, and requirements, including the prices to be
4 paid for renewable energy credits, where applicable, and
5 requirements applicable to participating entities and
6 project applications, through the development, review, and
7 approval of the Agency's long-term renewable resources
8 procurement plan described in this subsection (c) and
9 paragraph (5) of subsection (b) of Section 16-111.5 of the
10 Public Utilities Act. Terms, conditions, and requirements
11 for program participation shall include the following:

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

22 (ii) The Agency shall establish program
23 requirements and minimum contract terms to ensure
24 projects are properly installed and produce their
25 expected amounts of energy. Program requirements may
26 include on-site inspections and photo documentation of

1 projects under construction. The Agency may require
2 repairs, alterations, or additions to remedy any
3 material deficiencies discovered. Vendors who have a
4 disproportionately high number of deficient systems
5 may lose their eligibility to continue to receive
6 State-administered incentive funding through Agency
7 programs and procurements.

8 (iii) To discourage deceptive marketing or other
9 bad faith business practices, the Agency may require
10 direct program participants, including agents
11 operating on their behalf, to provide standardized
12 disclosures to a customer prior to that customer's
13 execution of a contract for the development of a
14 distributed generation system or a subscription to a
15 community solar project.

16 (iv) The Agency shall establish one or multiple
17 Consumer Complaints Centers to accept complaints
18 regarding businesses that participate in, or otherwise
19 benefit from, State-administered incentive funding
20 through Agency-administered programs. The Agency shall
21 maintain a public database of complaints with any
22 confidential or particularly sensitive information
23 redacted from public entries.

24 (v) Through a filing in the proceeding for the
25 approval of its long-term renewable energy resources
26 procurement plan, the Agency shall provide an annual

1 written report to the Illinois Commerce Commission
2 documenting the frequency and nature of complaints and
3 any enforcement actions taken in response to those
4 complaints.

5 (vi) The Agency shall schedule regular meetings
6 with representatives of the Office of the Attorney
7 General, the Illinois Commerce Commission, consumer
8 protection groups, and other interested stakeholders
9 to share relevant information about consumer
10 protection, project compliance, and complaints
11 received.

12 (vii) To the extent that complaints received
13 implicate the jurisdiction of the Office of the
14 Attorney General, the Illinois Commerce Commission, or
15 local, State, or federal law enforcement, the Agency
16 shall also refer complaints to those entities as
17 appropriate.

18 (N) The Agency shall establish the terms, conditions,
19 and program requirements for photovoltaic community
20 renewable generation projects with a goal to expand access
21 to a broader group of energy consumers, to ensure robust
22 participation opportunities for residential and small
23 commercial customers and those who cannot install
24 renewable energy on their own properties. Subject to
25 reasonable limitations, any plan approved by the
26 Commission shall allow subscriptions to community

1 renewable generation projects to be portable and
2 transferable. For purposes of this subparagraph (N),
3 "portable" means that subscriptions may be retained by the
4 subscriber even if the subscriber relocates or changes its
5 address within the same utility service territory; and
6 "transferable" means that a subscriber may assign or sell
7 subscriptions to another person within the same utility
8 service territory.

9 Through the development of its long-term renewable
10 resources procurement plan, the Agency may consider
11 whether community renewable generation projects utilizing
12 technologies other than photovoltaics should be supported
13 through State-administered incentive funding, and may
14 issue requests for information to gauge market demand.

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

20 The Agency shall purchase renewable energy credits
21 from subscribed shares of photovoltaic community renewable
22 generation projects through the Adjustable Block program
23 described in subparagraph (K) of this paragraph (1) or
24 through the Illinois Solar for All Program described in
25 Section 1-56 of this Act. The electric utility shall
26 purchase any unsubscribed energy from community renewable

1 generation projects that are Qualifying Facilities ("QF")
2 under the electric utility's tariff for purchasing the
3 output from QFs under Public Utilities Regulatory Policies
4 Act of 1978.

5 The owners of and any subscribers to a community
6 renewable generation project shall not be considered
7 public utilities or alternative retail electricity
8 suppliers under the Public Utilities Act solely as a
9 result of their interest in or subscription to a community
10 renewable generation project and shall not be required to
11 become an alternative retail electric supplier by
12 participating in a community renewable generation project
13 with a public utility.

14 (O) For the delivery year beginning June 1, 2018, the
15 long-term renewable resources procurement plan required by
16 this subsection (c) shall provide for the Agency to
17 procure contracts to continue offering the Illinois Solar
18 for All Program described in subsection (b) of Section
19 1-56 of this Act, and the contracts approved by the
20 Commission shall be executed by the utilities that are
21 subject to this subsection (c). The long-term renewable
22 resources procurement plan shall allocate up to
23 \$50,000,000 per delivery year to fund the programs, and
24 the plan shall determine the amount of funding to be
25 apportioned to the programs identified in subsection (b)
26 of Section 1-56 of this Act; provided that for the

1 delivery years beginning June 1, 2021, June 1, 2022, and
2 June 1, 2023, the long-term renewable resources
3 procurement plan may average the annual budgets over a
4 3-year period to account for program ramp-up. For the
5 delivery years beginning June 1, 2021, June 1, 2024, June
6 1, 2027, and June 1, 2030 and additional \$10,000,000 shall
7 be provided to the Department of Commerce and Economic
8 Opportunity to implement the workforce development
9 programs and reporting as outlined in Section 16-108.12 of
10 the Public Utilities Act. In making the determinations
11 required under this subparagraph (O), the Commission shall
12 consider the experience and performance under the programs
13 and any evaluation reports. The Commission shall also
14 provide for an independent evaluation of those programs on
15 a periodic basis that are funded under this subparagraph
16 (O).

17 (P) All programs and procurements under this
18 subsection (c) shall be designed to encourage
19 participating projects to use a diverse and equitable
20 workforce and a diverse set of contractors, including
21 minority-owned businesses, disadvantaged businesses,
22 trade unions, graduates of any workforce training programs
23 administered under this Act, and small businesses.

24 The Agency shall develop a method to optimize
25 procurement of renewable energy credits from proposed
26 utility-scale projects that are located in communities

1 eligible to receive Energy Transition Community Grants
2 pursuant to Section 10-20 of the Energy Community
3 Reinvestment Act. If this requirement conflicts with other
4 provisions of law or the Agency determines that full
5 compliance with the requirements of this subparagraph (P)
6 would be unreasonably costly or administratively
7 impractical, the Agency is to propose alternative
8 approaches to achieve development of renewable energy
9 resources in communities eligible to receive Energy
10 Transition Community Grants pursuant to Section 10-20 of
11 the Energy Community Reinvestment Act or seek an exemption
12 from this requirement from the Commission.

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

20 (1) Each facility shall be subject to the
21 prevailing wage requirements included in the
22 Prevailing Wage Act. The Agency shall require
23 verification that all construction performed on the
24 facility by the renewable energy credit delivery
25 contract holder, its contractors, or its
26 subcontractors relating to construction of the

1 facility is performed by construction employees
2 receiving an amount for that work equal to or greater
3 than the general prevailing rate, as that term is
4 defined in Section 3 of the Prevailing Wage Act. For
5 purposes of this item (1), "house of worship" means
6 property that is both (1) used exclusively by a
7 religious society or body of persons as a place for
8 religious exercise or religious worship and (2)
9 recognized as exempt from taxation pursuant to Section
10 15-40 of the Property Tax Code. This item (1) shall
11 apply to any the following:

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

13 (ii) all new utility-scale photovoltaic
14 projects;

15 (iii) all new brownfield photovoltaic
16 projects;

17 (iv) all new photovoltaic community renewable
18 energy facilities that qualify for item (iii) of
19 subparagraph (K) of this paragraph (1);

20 (v) all new community driven community
21 photovoltaic projects that qualify for item (v) of
22 subparagraph (K) of this paragraph (1);

23 (vi) all new photovoltaic projects on public
24 school land that qualify for item (iv) of
25 subparagraph (K) of this paragraph (1);

26 (vii) all new photovoltaic distributed

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

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

16 (ix) all new, modernized, or retooled
17 hydropower facilities.

18 (2) Renewable energy credits procured from new
19 utility-scale wind projects, new utility-scale solar
20 projects, and new brownfield solar projects pursuant
21 to Agency procurement events occurring after the
22 effective date of this amendatory Act of the 102nd
23 General Assembly must be from facilities built by
24 general contractors that must enter into a project
25 labor agreement, as defined by this Act, prior to
26 construction. The project labor agreement shall be

1 filed with the Director in accordance with procedures
2 established by the Agency through its long-term
3 renewable resources procurement plan. Any information
4 submitted to the Agency in this item (2) shall be
5 considered commercially sensitive information. At a
6 minimum, the project labor agreement must provide the
7 names, addresses, and occupations of the owner of the
8 plant and the individuals representing the labor
9 organization employees participating in the project
10 labor agreement consistent with the Project Labor
11 Agreements Act. The agreement must also specify the
12 terms and conditions as defined by this Act.
13 Notwithstanding any other provision of this
14 subparagraph, utility-scale solar projects and
15 utility-scale wind projects that are not located in
16 Illinois, but are associated with high voltage direct
17 current renewable energy credits are not obligated to
18 comply with this subparagraph if the associated high
19 voltage direct current transmission facility was
20 constructed under a project labor agreement signed by
21 2 or more construction crafts and the construction
22 project workforce for the generation unit was paid at
23 least the prevailing wage as determined by the United
24 States Department of Labor in the locality where the
25 work is being performed.

26 (3) It is the intent of this Section to ensure that

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

18 (R) In its long-term renewable resources procurement
19 plan, the Agency shall establish a self-direct renewable
20 portfolio standard compliance program for eligible
21 self-direct customers that purchase renewable energy
22 credits from utility-scale wind and solar projects through
23 long-term agreements for purchase of renewable energy
24 credits as described in this Section. Such long-term
25 agreements may include the purchase of energy or other
26 products on a physical or financial basis and may involve

1 an alternative retail electric supplier as defined in
2 Section 16-102 of the Public Utilities Act. This program
3 shall take effect in the delivery year commencing June 1,
4 2023.

5 (1) For the purposes of this subparagraph:

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

15 "Retail customer" has the meaning set forth in
16 Section 16-102 of the Public Utilities Act and
17 multiple retail customer accounts under the same
18 corporate parent may aggregate their account demands
19 to meet the 10,000 kilowatt threshold. The criteria
20 for determining whether this subparagraph is
21 applicable to a retail customer shall be based on the
22 12 consecutive billing periods prior to the start of
23 the year in which the application is filed.

24 (2) For renewable energy credits to count toward
25 the self-direct renewable portfolio standard
26 compliance program, they must:

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

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

14 (iii) be procured through long-term contracts
15 with term lengths of at least 10 years either
16 directly with the renewable energy generating
17 facility or through a bundled power purchase
18 agreement, a virtual power purchase agreement, an
19 agreement between the renewable generating
20 facility, an alternative retail electric supplier,
21 and the customer, or such other structure as is
22 permissible under this subparagraph (R);

23 (iv) be equivalent in volume to at least 40%
24 of the eligible self-direct customer's usage,
25 determined annually by the eligible self-direct
26 customer's usage during the previous delivery

1 year, measured to the nearest megawatt-hour;

2 (v) be retired by or on behalf of the large
3 energy customer;

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

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

14 (3) The self-direct renewable portfolio standard
15 compliance program shall be designed to allow eligible
16 self-direct customers to procure new renewable energy
17 credits from new utility-scale wind projects or new
18 utility-scale photovoltaic projects. The Agency shall
19 annually determine the amount of utility-scale
20 renewable energy credits it will include each year
21 from the self-direct renewable portfolio standard
22 compliance program, subject to receiving qualifying
23 applications. In making this determination, the Agency
24 shall evaluate publicly available analyses and studies
25 of the potential market size for utility-scale
26 renewable energy long-term purchase agreements by

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

24 (4) The Commission shall approve a reduction in
25 the volumetric charges collected pursuant to Section
26 16-108 of the Public Utilities Act for approved

1 eligible self-direct customers equivalent to the
2 anticipated cost of renewable energy credit deliveries
3 under contracts for new utility-scale wind and new
4 utility-scale solar entered for each delivery year
5 after the large energy customer begins retiring
6 eligible new utility scale renewable energy credits
7 for self-compliance. The self-direct credit amount
8 shall be determined annually and is equal to the
9 estimated portion of the cost authorized by
10 subparagraph (E) of paragraph (1) of this subsection
11 (c) that supported the annual procurement of
12 utility-scale renewable energy credits in the prior
13 delivery year using a methodology described in the
14 long-term renewable resources procurement plan,
15 expressed on a per kilowatthour basis, and does not
16 include (i) costs associated with any contracts
17 entered into before the delivery year in which the
18 customer files the initial compliance report to be
19 eligible for participation in the self-direct program,
20 and (ii) costs associated with procuring renewable
21 energy credits through existing and future contracts
22 through the Adjustable Block Program, subsection (c-5)
23 of this Section 1-75, and the Solar for All Program.
24 The Agency shall assist the Commission in determining
25 the current and future costs. The Agency must
26 determine the self-direct credit amount for new and

1 existing eligible self-direct customers and submit
2 this to the Commission in an annual compliance filing.
3 The Commission must approve the self-direct credit
4 amount by June 1, 2023 and June 1 of each delivery year
5 thereafter.

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

18 (i) the customer's certification that, at the
19 time of the customer's application, the customer
20 qualifies to be a self-direct eligible customer,
21 including documents demonstrating that
22 qualification;

23 (ii) the customer's certification that the
24 customer has entered into or will enter into by
25 the beginning of the applicable procurement year,
26 one or more bilateral contracts for new wind

1 projects or new photovoltaic projects, including
2 supporting documentation;

3 (iii) certification that the contract or
4 contracts for new renewable energy resources are
5 long-term contracts with term lengths of at least
6 10 years, including supporting documentation;

7 (iv) certification of the quantities of
8 renewable energy credits that the customer will
9 purchase each year under such contract or
10 contracts, including supporting documentation;

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

16 (vi) certification that the customer intends
17 to maintain the contract for the duration of the
18 length of the contract.

19 (6) If a customer receives the self-direct credit
20 but fails to properly procure and retire renewable
21 energy credits as required under this subparagraph
22 (R), the Commission, on petition from the Agency and
23 after notice and hearing, may direct such customer's
24 utility to recover the cost of the wrongfully received
25 self-direct credits plus interest through an adder to
26 charges assessed pursuant to Section 16-108 of the

1 Public Utilities Act. Self-direct customers who
2 knowingly fail to properly procure and retire
3 renewable energy credits and do not notify the Agency
4 are ineligible for continued participation in the
5 self-direct renewable portfolio standard compliance
6 program.

7 (2) (Blank).

8 (3) (Blank).

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

11 (5) Beginning with the 2010 delivery year and ending
12 June 1, 2017, an electric utility subject to this
13 subsection (c) shall apply the lesser of the maximum
14 alternative compliance payment rate or the most recent
15 estimated alternative compliance payment rate for its
16 service territory for the corresponding compliance period,
17 established pursuant to subsection (d) of Section 16-115D
18 of the Public Utilities Act to its retail customers that
19 take service pursuant to the electric utility's hourly
20 pricing tariff or tariffs. The electric utility shall
21 retain all amounts collected as a result of the
22 application of the alternative compliance payment rate or
23 rates to such customers, and, beginning in 2011, the
24 utility shall include in the information provided under
25 item (1) of subsection (d) of Section 16-111.5 of the
26 Public Utilities Act the amounts collected under the

1 alternative compliance payment rate or rates for the prior
2 year ending May 31. Notwithstanding any limitation on the
3 procurement of renewable energy resources imposed by item
4 (2) of this subsection (c), the Agency shall increase its
5 spending on the purchase of renewable energy resources to
6 be procured by the electric utility for the next plan year
7 by an amount equal to the amounts collected by the utility
8 under the alternative compliance payment rate or rates in
9 the prior year ending May 31.

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

20 (7) Renewable energy credits procured from new
21 photovoltaic projects or new distributed renewable energy
22 generation devices under this Section after June 1, 2017
23 (the effective date of Public Act 99-906) must be procured
24 from devices installed by a qualified person in compliance
25 with the requirements of Section 16-128A of the Public
26 Utilities Act and any rules or regulations adopted

1 thereunder.

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

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

16 (1) In addition to the procurement of renewable energy
17 credits pursuant to long-term renewable resources
18 procurement plans in accordance with subsection (c) of
19 this Section and Section 16-111.5 of the Public Utilities
20 Act, the Agency shall conduct procurement events in
21 accordance with this subsection (c-5) for the procurement
22 by electric utilities that served more than 300,000 retail
23 customers in this State as of January 1, 2019 of renewable
24 energy credits from new renewable energy facilities to be
25 installed at or adjacent to the sites of electric
26 generating facilities that, as of January 1, 2016, burned

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

24 (2) The Agency shall conduct 2 procurement events to
25 select owners of electric generating facilities meeting
26 the eligibility criteria specified in this subsection

1 (c-5) to enter into long-term contracts to sell renewable
2 energy credits to electric utilities serving more than
3 300,000 retail customers in this State as of January 1,
4 2019. The first procurement event shall be conducted no
5 later than March 31, 2022, unless the Agency elects to
6 delay it, until no later than May 1, 2022, due to its
7 overall volume of work, and shall be to select owners of
8 electric generating facilities located in this State and
9 south of federal Interstate Highway 80 that meet the
10 eligibility criteria specified in this subsection (c-5).
11 The second procurement event shall be conducted no sooner
12 than September 30, 2022 and no later than October 31, 2022
13 and shall be to select owners of electric generating
14 facilities located anywhere in this State that meet the
15 eligibility criteria specified in this subsection (c-5).
16 The Agency shall establish and announce a time period,
17 which shall begin no later than 30 days prior to the
18 scheduled date for the procurement event, during which
19 applicants may submit applications to be selected as
20 suppliers of renewable energy credits pursuant to this
21 subsection (c-5). The eligibility criteria for selection
22 as a supplier of renewable energy credits pursuant to this
23 subsection (c-5) shall be as follows:

24 (A) The applicant owns an electric generating
25 facility located in this State that: (i) as of January
26 1, 2016, burned coal as its primary fuel to generate

1 electricity; and (ii) has, or had prior to retirement,
2 an electric generating capacity of at least 150
3 megawatts. The electric generating facility can be
4 either: (i) retired as of the date of the procurement
5 event; or (ii) still operating as of the date of the
6 procurement event.

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

17 (C) If participating in the first procurement
18 event, the applicant proposes and commits to construct
19 and operate, at the site, and if necessary for
20 sufficient space on property adjacent to the existing
21 property, at which the electric generating facility
22 identified in paragraph (A) is located: (i) a new
23 renewable energy facility of at least 20 megawatts but
24 no more than 100 megawatts of electric generating
25 capacity, and (ii) an energy storage facility having a
26 storage capacity equal to at least 2 megawatts and at

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

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

18 (E) The applicant agrees that personnel operating
19 the new renewable energy facility and the energy
20 storage facility will have the requisite skills,
21 knowledge, training, experience, and competence, which
22 may be demonstrated by completion or current
23 participation and ultimate completion by employees of
24 an accredited or otherwise recognized apprenticeship
25 program for the employee's particular craft, trade, or
26 skill, including through training and education

1 courses and opportunities offered by the owner to
2 employees of the coal-fueled electric generating
3 facility or by previous employment experience
4 performing the employee's particular work skill or
5 function.

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

19 (G) The applicant commits that if selected, it
20 will negotiate a project labor agreement for the
21 construction of the new renewable energy facility and
22 associated energy storage facility that includes
23 provisions requiring the parties to the agreement to
24 work together to establish diversity threshold
25 requirements and to ensure best efforts to meet
26 diversity targets, improve diversity at the applicable

1 job site, create diverse apprenticeship opportunities,
2 and create opportunities to employ former coal-fired
3 power plant workers.

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

23 (I) The applicant's application is certified by an
24 officer of the applicant and by an officer of the
25 applicant's ultimate parent company, if any.

26 (3) An applicant may submit applications to contract

1 to supply renewable energy credits from more than one new
2 renewable energy facility to be constructed at or adjacent
3 to one or more qualifying electric generating facilities
4 owned by the applicant. The Agency may select new
5 renewable energy facilities to be located at or adjacent
6 to the sites of more than one qualifying electric
7 generation facility owned by an applicant to contract with
8 electric utilities to supply renewable energy credits from
9 such facilities.

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

19 (5) The Agency shall select the applicants and the new
20 renewable energy facilities to contract with electric
21 utilities to supply renewable energy credits in accordance
22 with this subsection (c-5). In the first procurement
23 event, the Agency shall select applicants and new
24 renewable energy facilities to supply renewable energy
25 credits, at a price of \$30 per renewable energy credit,
26 aggregating to no less than 400,000 renewable energy

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

19 (6) The obligation to purchase renewable energy
20 credits from the applicants and their new renewable energy
21 facilities selected by the Agency shall be allocated to
22 the electric utilities based on their respective
23 percentages of kilowatthours delivered to delivery
24 services customers to the aggregate kilowatthour
25 deliveries by the electric utilities to delivery services
26 customers for the year ended December 31, 2021. In order

1 to achieve these allocation percentages between or among
2 the electric utilities, the Agency shall require each
3 applicant that is selected in the procurement event to
4 enter into a contract with each electric utility for the
5 sale and purchase of renewable energy credits from each
6 new renewable energy facility to be constructed and
7 operated by the applicant, with the sale and purchase
8 obligations under the contracts to aggregate to the total
9 number of renewable energy credits per year to be supplied
10 by the applicant from the new renewable energy facility.

11 (7) The Agency shall submit its proposed selection of
12 applicants, new renewable energy facilities to be
13 constructed, and renewable energy credit amounts for each
14 procurement event to the Commission for approval. The
15 Commission shall, within 2 business days after receipt of
16 the Agency's proposed selections, approve the proposed
17 selections if it determines that the applicants and the
18 new renewable energy facilities to be constructed meet the
19 selection criteria set forth in this subsection (c-5) and
20 that the Agency seeks approval for contracts of applicable
21 durations aggregating to no more than the maximum amount
22 of renewable energy credits per year authorized by this
23 subsection (c-5) for the procurement event, at a price of
24 \$30 per renewable energy credit.

25 (8) The Agency, in conjunction with its procurement
26 administrator if one is retained, the electric utilities,

1 and potential applicants for contracts to produce and
2 supply renewable energy credits pursuant to this
3 subsection (c-5), shall develop a standard form contract
4 for the sale, delivery and purchase of renewable energy
5 credits pursuant to this subsection (c-5). Each contract
6 resulting from the first procurement event shall allow for
7 a commercial operation date for the new renewable energy
8 facility of either June 1, 2023 or June 1, 2024, with such
9 dates subject to adjustment as provided in this paragraph.
10 Each contract resulting from the second procurement event
11 shall provide for a commercial operation date on June 1
12 next occurring up to 48 months after execution of the
13 contract. Each contract shall provide that the owner shall
14 receive payments for renewable energy credits for the
15 applicable durations beginning with the commercial
16 operation date of the new renewable energy facility. The
17 form contract shall provide for adjustments to the
18 commercial operation and payment start dates as needed due
19 to any delays in completing the procurement and
20 contracting processes, in finalizing interconnection
21 agreements and installing interconnection facilities, and
22 in obtaining other necessary governmental permits and
23 approvals. The form contract shall be, to the maximum
24 extent possible, consistent with standard electric
25 industry contracts for sale, delivery, and purchase of
26 renewable energy credits while taking into account the

1 specific requirements of this subsection (c-5). The form
2 contract shall provide for over-delivery and
3 under-delivery of renewable energy credits within
4 reasonable ranges during each 12-month period and penalty,
5 default, and enforcement provisions for failure of the
6 selling party to deliver renewable energy credits as
7 specified in the contract and to comply with the
8 requirements of this subsection (c-5). The standard form
9 contract shall specify that all renewable energy credits
10 delivered to the electric utility pursuant to the contract
11 shall be retired. The Agency shall make the proposed
12 contracts available for a reasonable period for comment by
13 potential applicants, and shall publish the final form
14 contract at least 30 days before the date of the first
15 procurement event.

16 (9) Coal to Solar and Energy Storage Initiative
17 Charge.

18 (A) By no later than July 1, 2022, each electric
19 utility that served more than 300,000 retail customers
20 in this State as of January 1, 2019 shall file a tariff
21 with the Commission for the billing and collection of
22 a Coal to Solar and Energy Storage Initiative Charge
23 in accordance with subsection (i-5) of Section 16-108
24 of the Public Utilities Act, with such tariff to be
25 effective, following review and approval or
26 modification by the Commission, beginning January 1,

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

24 (B) Each electric utility shall remit on a monthly
25 basis to the State Treasurer, for deposit in the Coal
26 to Solar and Energy Storage Initiative Fund provided

1 for in this subsection (c-5), the electric utility's
2 collections of the Coal to Solar and Energy Storage
3 Initiative Charge in the amount estimated to be needed
4 by the Department for grant payments pursuant to grant
5 contracts entered into by the Department pursuant to
6 paragraph (10) of this subsection (c-5).

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

8 (A) The Coal to Solar and Energy Storage
9 Initiative Fund is established as a special fund in
10 the State treasury. The Coal to Solar and Energy
11 Storage Initiative Fund is authorized to receive, by
12 statutory deposit, that portion specified in item (B)
13 of paragraph (9) of this subsection (c-5) of moneys
14 collected by electric utilities through imposition of
15 the Coal to Solar and Energy Storage Initiative Charge
16 required by this subsection (c-5). The Coal to Solar
17 and Energy Storage Initiative Fund shall be
18 administered by the Department to provide grants to
19 support the installation and operation of energy
20 storage facilities at the sites of qualifying electric
21 generating facilities meeting the criteria specified
22 in this paragraph (10).

23 (B) The Coal to Solar and Energy Storage
24 Initiative Fund shall not be subject to sweeps,
25 administrative charges, or chargebacks, including, but
26 not limited to, those authorized under Section 8h of

1 the State Finance Act, that would in any way result in
2 the transfer of those funds from the Coal to Solar and
3 Energy Storage Initiative Fund to any other fund of
4 this State or in having any such funds utilized for any
5 purpose other than the express purposes set forth in
6 this paragraph (10).

7 (C) The Department shall utilize up to
8 \$280,500,000 in the Coal to Solar and Energy Storage
9 Initiative Fund for grants, assuming sufficient
10 qualifying applicants, to support installation of
11 energy storage facilities at the sites of up to 3
12 qualifying electric generating facilities located in
13 the Midcontinent Independent System Operator, Inc.,
14 region in Illinois and the sites of up to 2 qualifying
15 electric generating facilities located in the PJM
16 Interconnection, LLC region in Illinois that meet the
17 criteria set forth in this subparagraph (C). The
18 criteria for receipt of a grant pursuant to this
19 subparagraph (C) are as follows:

20 (1) the electric generating facility at the
21 site has, or had prior to retirement, an electric
22 generating capacity of at least 150 megawatts;

23 (2) the electric generating facility burns (or
24 burned prior to retirement) coal as its primary
25 source of fuel;

26 (3) if the electric generating facility is

1 retired, it was retired subsequent to January 1,
2 2016;

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

11 (5) the electric generating facility located
12 at the site was at one time owned, in whole or in
13 part, by a public utility as defined in Section
14 3-105 of the Public Utilities Act;

15 (6) the electric generating facility at the
16 site is not owned by (i) an electric cooperative
17 as defined in Section 3-119 of the Public
18 Utilities Act, or (ii) an entity described in
19 subsection (b)(1) of Section 3-105 of the Public
20 Utilities Act, or an association or consortium of
21 or an entity owned by entities described in items
22 (i) or (ii);

23 (7) the proposed energy storage facility at
24 the site will have energy storage capacity of at
25 least 37 megawatts;

26 (8) the owner commits to place the energy

1 storage facility into commercial operation on
2 either June 1, 2023, June 1, 2024, or June 1, 2025,
3 with such date subject to adjustment as needed due
4 to any delays in completing the grant contracting
5 process, in finalizing interconnection agreements
6 and in installing interconnection facilities, and
7 in obtaining necessary governmental permits and
8 approvals;

9 (9) the owner agrees that the new energy
10 storage facility will be constructed or installed
11 by a qualified entity or entities consistent with
12 the requirements of subsection (g) of Section
13 16-128A of the Public Utilities Act and any rules
14 adopted under that Section;

15 (10) the owner agrees that personnel operating
16 the energy storage facility will have the
17 requisite skills, knowledge, training, experience,
18 and competence, which may be demonstrated by
19 completion or current participation and ultimate
20 completion by employees of an accredited or
21 otherwise recognized apprenticeship program for
22 the employee's particular craft, trade, or skill,
23 including through training and education courses
24 and opportunities offered by the owner to
25 employees of the coal-fueled electric generating
26 facility or by previous employment experience

1 performing the employee's particular work skill or
2 function;

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

16 (12) the owner commits that if selected to
17 receive a grant, it will negotiate a project labor
18 agreement for the construction of the new energy
19 storage facility that includes provisions
20 requiring the parties to the agreement to work
21 together to establish diversity threshold
22 requirements and to ensure best efforts to meet
23 diversity targets, improve diversity at the
24 applicable job site, create diverse apprenticeship
25 opportunities, and create opportunities to employ
26 former coal-fired power plant workers.

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

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

21 (E) All disbursements from the Coal to Solar and
22 Energy Storage Initiative Fund shall be made only upon
23 warrants of the Comptroller drawn upon the Treasurer
24 as custodian of the Fund upon vouchers signed by the
25 Director of the Department or by the person or persons
26 designated by the Director of the Department for that

1 purpose. The Comptroller is authorized to draw the
2 warrants upon vouchers so signed. The Treasurer shall
3 accept all written warrants so signed and shall be
4 released from liability for all payments made on those
5 warrants.

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

7 (A) Each applicant selected in a procurement event
8 to contract to supply renewable energy credits in
9 accordance with this subsection (c-5) and each owner
10 selected by the Department to receive a grant or
11 grants to support the construction and operation of a
12 new energy storage facility or facilities in
13 accordance with this subsection (c-5) shall, within 60
14 days following the Commission's approval of the
15 applicant to contract to supply renewable energy
16 credits or within 60 days following execution of a
17 grant contract with the Department, as applicable,
18 submit to the Commission a diversity, equity, and
19 inclusion plan setting forth the applicant's or
20 owner's numeric goals for the diversity composition of
21 its supplier entities for the new renewable energy
22 facility or new energy storage facility, as
23 applicable, which shall be referred to for purposes of
24 this paragraph (11) as the project, and the
25 applicant's or owner's action plan and schedule for
26 achieving those goals.

1 (B) For purposes of this paragraph (11), diversity
2 composition shall be based on the percentage, which
3 shall be a minimum of 25%, of eligible expenditures
4 for contract awards for materials and services (which
5 shall be defined in the plan) to business enterprises
6 owned by minority persons, women, or persons with
7 disabilities as defined in Section 2 of the Business
8 Enterprise for Minorities, Women, and Persons with
9 Disabilities Act, to LGBTQ business enterprises, to
10 veteran-owned business enterprises, and to business
11 enterprises located in environmental justice
12 communities. The diversity composition goals of the
13 plan may include eligible expenditures in areas for
14 vendor or supplier opportunities in addition to
15 development and construction of the project, and may
16 exclude from eligible expenditures materials and
17 services with limited market availability, limited
18 production and availability from suppliers in the
19 United States, such as solar panels and storage
20 batteries, and material and services that are subject
21 to critical energy infrastructure or cybersecurity
22 requirements or restrictions. The plan may provide
23 that the diversity composition goals may be met
24 through Tier 1 Direct or Tier 2 subcontracting
25 expenditures or a combination thereof for the project.

26 (C) The plan shall provide for, but not be limited

1 to: (i) internal initiatives, including multi-tier
2 initiatives, by the applicant or owner, or by its
3 engineering, procurement and construction contractor
4 if one is used for the project, which for purposes of
5 this paragraph (11) shall be referred to as the EPC
6 contractor, to enable diverse businesses to be
7 considered fairly for selection to provide materials
8 and services; (ii) requirements for the applicant or
9 owner or its EPC contractor to proactively solicit and
10 utilize diverse businesses to provide materials and
11 services; and (iii) requirements for the applicant or
12 owner or its EPC contractor to hire a diverse
13 workforce for the project. The plan shall include a
14 description of the applicant's or owner's diversity
15 recruiting efforts both for the project and for other
16 areas of the applicant's or owner's business
17 operations. The plan shall provide for the imposition
18 of financial penalties on the applicant's or owner's
19 EPC contractor for failure to exercise best efforts to
20 comply with and execute the EPC contractor's diversity
21 obligations under the plan. The plan may provide for
22 the applicant or owner to set aside a portion of the
23 work on the project to serve as an incubation program
24 for qualified businesses, as specified in the plan,
25 owned by minority persons, women, persons with
26 disabilities, LGBTQ persons, and veterans, and

1 businesses located in environmental justice
2 communities, seeking to enter the renewable energy
3 industry.

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

19 (c-10) Equity accountability system. It is the purpose of
20 this subsection (c-10) to create an equity accountability
21 system, which includes the minimum equity standards for all
22 renewable energy procurements, the equity category of the
23 Adjustable Block Program, and the equity prioritization for
24 noncompetitive procurements, that is successful in advancing
25 priority access to the clean energy economy for businesses and
26 workers from communities that have been excluded from economic

1 opportunities in the energy sector, have been subject to
2 disproportionate levels of pollution, and have
3 disproportionately experienced negative public health
4 outcomes. Further, it is the purpose of this subsection to
5 ensure that this equity accountability system is successful in
6 advancing equity across Illinois by providing access to the
7 clean energy economy for businesses and workers from
8 communities that have been historically excluded from economic
9 opportunities in the energy sector, have been subject to
10 disproportionate levels of pollution, and have
11 disproportionately experienced negative public health
12 outcomes.

13 (1) Minimum equity standards. The Agency shall create
14 programs with the purpose of increasing access to and
15 development of equity eligible contractors, who are prime
16 contractors and subcontractors, across all of the programs
17 it manages. All applications for renewable energy credit
18 procurements shall comply with specific minimum equity
19 commitments. Starting in the delivery year immediately
20 following the next long-term renewable resources
21 procurement plan, at least 10% of the project workforce
22 for each entity participating in a procurement program
23 outlined in this subsection (c-10) must be done by equity
24 eligible persons or equity eligible contractors. The
25 Agency shall increase the minimum percentage each delivery
26 year thereafter by increments that ensure a statewide

1 average of 30% of the project workforce for each entity
2 participating in a procurement program is done by equity
3 eligible persons or equity eligible contractors by 2030.
4 The Agency shall propose a schedule of percentage
5 increases to the minimum equity standards in its draft
6 revised renewable energy resources procurement plan
7 submitted to the Commission for approval pursuant to
8 paragraph (5) of subsection (b) of Section 16-111.5 of the
9 Public Utilities Act. In determining these annual
10 increases, the Agency shall have the discretion to
11 establish different minimum equity standards for different
12 types of procurements and different regions of the State
13 if the Agency finds that doing so will further the
14 purposes of this subsection (c-10). The proposed schedule
15 of annual increases shall be revisited and updated on an
16 annual basis. Revisions shall be developed with
17 stakeholder input, including from equity eligible persons,
18 equity eligible contractors, clean energy industry
19 representatives, and community-based organizations that
20 work with such persons and contractors.

21 (A) At the start of each delivery year, the Agency
22 shall require a compliance plan from each entity
23 participating in a procurement program of subsection
24 (c) of this Section that demonstrates how they will
25 achieve compliance with the minimum equity standard
26 percentage for work completed in that delivery year.

1 If an entity applies for its approved vendor or
2 designee status between delivery years, the Agency
3 shall require a compliance plan at the time of
4 application.

5 (B) Halfway through each delivery year, the Agency
6 shall require each entity participating in a
7 procurement program to confirm that it will achieve
8 compliance in that delivery year, when applicable. The
9 Agency may offer corrective action plans to entities
10 that are not on track to achieve compliance.

11 (C) At the end of each delivery year, each entity
12 participating and completing work in that delivery
13 year in a procurement program of subsection (c) shall
14 submit a report to the Agency that demonstrates how it
15 achieved compliance with the minimum equity standards
16 percentage for that delivery year.

17 (D) The Agency shall prohibit participation in
18 procurement programs by an approved vendor or
19 designee, as applicable, or entities with which an
20 approved vendor or designee, as applicable, shares a
21 common parent company if an approved vendor or
22 designee, as applicable, failed to meet the minimum
23 equity standards for the prior delivery year. Waivers
24 approved for lack of equity eligible persons or equity
25 eligible contractors in a geographic area of a project
26 shall not count against the approved vendor or

1 designee. The Agency shall offer a corrective action
2 plan for any such entities to assist them in obtaining
3 compliance and shall allow continued access to
4 procurement programs upon an approved vendor or
5 designee demonstrating compliance.

6 (E) The Agency shall pursue efficiencies achieved
7 by combining with other approved vendor or designee
8 reporting.

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

13 (3) Equity accountability system within competitive
14 procurements. Through its long-term renewable resources
15 procurement plan, the Agency shall develop requirements
16 for ensuring that competitive procurement processes,
17 including utility-scale solar, utility-scale wind, and
18 brownfield site photovoltaic projects, advance the equity
19 goals of this subsection (c-10). Subject to Commission
20 approval, the Agency shall develop bid application
21 requirements and a bid evaluation methodology for ensuring
22 that utilization of equity eligible contractors, whether
23 as bidders or as participants on project development, is
24 optimized, including requiring that winning or successful
25 applicants for utility-scale projects are or will partner
26 with equity eligible contractors and giving preference to

1 bids through which a higher portion of contract value
2 flows to equity eligible contractors. To the extent
3 practicable, entities participating in competitive
4 procurements shall also be required to meet all the equity
5 accountability requirements for approved vendors and their
6 designees under this subsection (c-10). In developing
7 these requirements, the Agency shall also consider whether
8 equity goals can be further advanced through additional
9 measures.

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

13 (A) The current status and number of equity
14 eligible contractors listed in the Energy Workforce
15 Equity Database designed in subsection (c-25),
16 including the number of equity eligible contractors
17 with current certifications as issued by the Agency.

18 (B) A mechanism for measuring, tracking, and
19 reporting project workforce at the approved vendor or
20 designee level, as applicable, which shall include a
21 measurement methodology and records to be made
22 available for audit by the Agency or the Program
23 Administrator.

24 (C) A program for approved vendors, designees,
25 eligible persons, and equity eligible contractors to
26 receive trainings, guidance, and other support from

1 the Agency or its designee regarding the equity
2 category outlined in item (vi) of subparagraph (K) of
3 paragraph (1) of subsection (c) and in meeting the
4 minimum equity standards of this subsection (c-10).

5 (D) A process for certifying equity eligible
6 contractors and equity eligible persons. The
7 certification process shall coordinate with the Energy
8 Workforce Equity Database set forth in subsection
9 (c-25).

10 (E) An application for waiver of the minimum
11 equity standards of this subsection, which the Agency
12 shall have the discretion to grant in rare
13 circumstances. The Agency may grant such a waiver
14 where the applicant provides evidence of significant
15 efforts toward meeting the minimum equity commitment,
16 including: use of the Energy Workforce Equity
17 Database; efforts to hire or contract with entities
18 that hire eligible persons; and efforts to establish
19 contracting relationships with eligible contractors.
20 The Agency shall support applicants in understanding
21 the Energy Workforce Equity Database and other
22 resources for pursuing compliance of the minimum
23 equity standards. Waivers shall be project-specific,
24 unless the Agency deems it necessary to grant a waiver
25 across a portfolio of projects, and in effect for no
26 longer than one year. Any waiver extension or

1 subsequent waiver request from an applicant shall be
2 subject to the requirements of this Section and shall
3 specify efforts made to reach compliance. When
4 considering whether to grant a waiver, and to what
5 extent, the Agency shall consider the degree to which
6 similarly situated applicants have been able to meet
7 these minimum equity commitments. For repeated waiver
8 requests for specific lack of eligible persons or
9 eligible contractors available, the Agency shall make
10 recommendations to target recruitment to add such
11 eligible persons or eligible contractors to the
12 database.

13 (5) The Agency shall collect information about work on
14 projects or portfolios of projects subject to these
15 minimum equity standards to ensure compliance with this
16 subsection (c-10). Reporting in furtherance of this
17 requirement may be combined with other annual reporting
18 requirements. Such reporting shall include proof of
19 certification of each equity eligible contractor or equity
20 eligible person during the applicable time period.

21 (6) The Agency shall keep confidential all information
22 and communication that provides private or personal
23 information.

24 (7) Modifications to the equity accountability system.
25 As part of the update of the long-term renewable resources
26 procurement plan to be initiated in 2023, or sooner if the

1 Agency deems necessary, the Agency shall determine the
2 extent to which the equity accountability system described
3 in this subsection (c-10) has advanced the goals of this
4 amendatory Act of the 102nd General Assembly, including
5 through the inclusion of equity eligible persons and
6 equity eligible contractors in renewable energy credit
7 projects. If the Agency finds that the equity
8 accountability system has failed to meet those goals to
9 its fullest potential, the Agency may revise the following
10 criteria for future Agency procurements: (A) the
11 percentage of project workforce, or other appropriate
12 workforce measure, certified as equity eligible persons or
13 equity eligible contractors; (B) definitions for equity
14 investment eligible persons and equity investment eligible
15 community; and (C) such other modifications necessary to
16 advance the goals of this amendatory Act of the 102nd
17 General Assembly effectively. Such revised criteria may
18 also establish distinct equity accountability systems for
19 different types of procurements or different regions of
20 the State if the Agency finds that doing so will further
21 the purposes of such programs. Revisions shall be
22 developed with stakeholder input, including from equity
23 eligible persons, equity eligible contractors, and
24 community-based organizations that work with such persons
25 and contractors.

26 (c-15) Racial discrimination elimination powers and

1 process.

2 (1) Purpose. It is the purpose of this subsection to
3 empower the Agency and other State actors to remedy racial
4 discrimination in Illinois' clean energy economy as
5 effectively and expediently as possible, including through
6 the use of race-conscious remedies, such as race-conscious
7 contracting and hiring goals, as consistent with State and
8 federal law.

9 (2) Racial disparity and discrimination review
10 process.

11 (A) Within one year after awarding contracts using
12 the equity actions processes established in this
13 Section, the Agency shall publish a report evaluating
14 the effectiveness of the equity actions point criteria
15 of this Section in increasing participation of equity
16 eligible persons and equity eligible contractors. The
17 report shall disaggregate participating workers and
18 contractors by race and ethnicity. The report shall be
19 forwarded to the Governor, the General Assembly, and
20 the Illinois Commerce Commission and be made available
21 to the public.

22 (B) As soon as is practicable thereafter, the
23 Agency, in consultation with the Department of
24 Commerce and Economic Opportunity, Department of
25 Labor, and other agencies that may be relevant, shall
26 commission and publish a disparity and availability

1 study that measures the presence and impact of
2 discrimination on minority businesses and workers in
3 Illinois' clean energy economy. The Agency may hire
4 consultants and experts to conduct the disparity and
5 availability study, with the retention of those
6 consultants and experts exempt from the requirements
7 of Section 20-10 of the Illinois Procurement Code. The
8 Illinois Power Agency shall forward a copy of its
9 findings and recommendations to the Governor, the
10 General Assembly, and the Illinois Commerce
11 Commission. If the disparity and availability study
12 establishes a strong basis in evidence that there is
13 discrimination in Illinois' clean energy economy, the
14 Agency, Department of Commerce and Economic
15 Opportunity, Department of Labor, Department of
16 Corrections, and other appropriate agencies shall take
17 appropriate remedial actions, including race-conscious
18 remedial actions as consistent with State and federal
19 law, to effectively remedy this discrimination. Such
20 remedies may include modification of the equity
21 accountability system as described in subsection
22 (c-10).

23 (c-20) Program data collection.

24 (1) Purpose. Data collection, data analysis, and
25 reporting are critical to ensure that the benefits of the
26 clean energy economy provided to Illinois residents and

1 businesses are equitably distributed across the State. The
2 Agency shall collect data from program applicants in order
3 to track and improve equitable distribution of benefits
4 across Illinois communities for all procurements the
5 Agency conducts. The Agency shall use this data to, among
6 other things, measure any potential impact of racial
7 discrimination on the distribution of benefits and provide
8 information necessary to correct any discrimination
9 through methods consistent with State and federal law.

10 (2) Agency collection of program data. The Agency
11 shall collect demographic and geographic data for each
12 entity awarded contracts under any Agency-administered
13 program.

14 (3) Required information to be collected. The Agency
15 shall collect the following information from applicants
16 and program participants where applicable:

17 (A) demographic information, including racial or
18 ethnic identity for real persons employed, contracted,
19 or subcontracted through the program and owners of
20 businesses or entities that apply to receive renewable
21 energy credits from the Agency;

22 (B) geographic location of the residency of real
23 persons employed, contracted, or subcontracted through
24 the program and geographic location of the
25 headquarters of the business or entity that applies to
26 receive renewable energy credits from the Agency; and

1 (C) any other information the Agency determines is
2 necessary for the purpose of achieving the purpose of
3 this subsection.

4 (4) Publication of collected information. The Agency
5 shall publish, at least annually, information on the
6 demographics of program participants on an aggregate
7 basis.

8 (5) Nothing in this subsection shall be interpreted to
9 limit the authority of the Agency, or other agency or
10 department of the State, to require or collect demographic
11 information from applicants of other State programs.

12 (c-25) Energy Workforce Equity Database.

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

23 (A) publicly accessible;

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

25 (C) organized by company specialty or field;

26 (D) region-specific; and

1 (E) populated with information including, but not
2 limited to, contacts for suppliers, vendors, or
3 subcontractors who are minority and women-owned
4 business enterprise certified or who participate or
5 have participated in any of the programs described in
6 this Act.

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

10 (A) a map of environmental justice and equity
11 investment eligible communities;

12 (B) job postings and recruiting opportunities;

13 (C) a means by which recruiting clean energy
14 companies can find and interact with current or former
15 participants of clean energy workforce training
16 programs;

17 (D) information on workforce training service
18 providers and training opportunities available to
19 prospective workers;

20 (E) renewable energy company diversity reporting;

21 (F) a list of equity eligible contractors with
22 their contact information, types of work performed,
23 and locations worked in;

24 (G) reporting on outcomes of the programs
25 described in the workforce programs of the Energy
26 Transition Act, including information such as, but not

1 limited to, retention rate, graduation rate, and
2 placement rates of trainees; and

3 (H) information about the Jobs and Environmental
4 Justice Grant Program, the Clean Energy Jobs and
5 Justice Fund, and other sources of capital.

6 (3) The Agency shall ensure the database is regularly
7 updated to ensure information is current and shall
8 coordinate with the Department of Commerce and Economic
9 Opportunity to ensure that it includes information on
10 individuals and entities that are or have participated in
11 the Clean Jobs Workforce Network Program, Clean Energy
12 Contractor Incubator Program, Returning Residents Clean
13 Jobs Training Program, or Clean Energy Primes Contractor
14 Accelerator Program.

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

1 subparagraph (c-10) may reapply once they have a corrective
2 action plan and achieve compliance with the minimum equity
3 standards.

4 (d) Clean coal portfolio standard.

5 (1) The procurement plans shall include electricity
6 generated using clean coal. Each utility shall enter into
7 one or more sourcing agreements with the initial clean
8 coal facility, as provided in paragraph (3) of this
9 subsection (d), covering electricity generated by the
10 initial clean coal facility representing at least 5% of
11 each utility's total supply to serve the load of eligible
12 retail customers in 2015 and each year thereafter, as
13 described in paragraph (3) of this subsection (d), subject
14 to the limits specified in paragraph (2) of this
15 subsection (d). It is the goal of the State that by January
16 1, 2025, 25% of the electricity used in the State shall be
17 generated by cost-effective clean coal facilities. For
18 purposes of this subsection (d), "cost-effective" means
19 that the expenditures pursuant to such sourcing agreements
20 do not cause the limit stated in paragraph (2) of this
21 subsection (d) to be exceeded and do not exceed cost-based
22 benchmarks, which shall be developed to assess all
23 expenditures pursuant to such sourcing agreements covering
24 electricity generated by clean coal facilities, other than
25 the initial clean coal facility, by the procurement
26 administrator, in consultation with the Commission staff,

1 Agency staff, and the procurement monitor and shall be
2 subject to Commission review and approval.

3 A utility party to a sourcing agreement shall
4 immediately retire any emission credits that it receives
5 in connection with the electricity covered by such
6 agreement.

7 Utilities shall maintain adequate records documenting
8 the purchases under the sourcing agreement to comply with
9 this subsection (d) and shall file an accounting with the
10 load forecast that must be filed with the Agency by July 15
11 of each year, in accordance with subsection (d) of Section
12 16-111.5 of the Public Utilities Act.

13 A utility shall be deemed to have complied with the
14 clean coal portfolio standard specified in this subsection
15 (d) if the utility enters into a sourcing agreement as
16 required by this subsection (d).

17 (2) For purposes of this subsection (d), the required
18 execution of sourcing agreements with the initial clean
19 coal facility for a particular year shall be measured as a
20 percentage of the actual amount of electricity
21 (megawatt-hours) supplied by the electric utility to
22 eligible retail customers in the planning year ending
23 immediately prior to the agreement's execution. For
24 purposes of this subsection (d), the amount paid per
25 kilowatthour means the total amount paid for electric
26 service expressed on a per kilowatthour basis. For

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

5 Notwithstanding the requirements of this subsection
6 (d), the total amount paid under sourcing agreements with
7 clean coal facilities pursuant to the procurement plan for
8 any given year shall be reduced by an amount necessary to
9 limit the annual estimated average net increase due to the
10 costs of these resources included in the amounts paid by
11 eligible retail customers in connection with electric
12 service to:

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

16 (B) in 2011, the greater of an additional 0.5% of
17 the amount paid per kilowatthour by those customers
18 during the year ending May 31, 2010 or 1% of the amount
19 paid per kilowatthour by those customers during the
20 year ending May 31, 2009;

21 (C) in 2012, the greater of an additional 0.5% of
22 the amount paid per kilowatthour by those customers
23 during the year ending May 31, 2011 or 1.5% of the
24 amount paid per kilowatthour by those customers during
25 the year ending May 31, 2009;

26 (D) in 2013, the greater of an additional 0.5% of

1 the amount paid per kilowatthour by those customers
2 during the year ending May 31, 2012 or 2% of the amount
3 paid per kilowatthour by those customers during the
4 year ending May 31, 2009; and

5 (E) thereafter, the total amount paid under
6 sourcing agreements with clean coal facilities
7 pursuant to the procurement plan for any single year
8 shall be reduced by an amount necessary to limit the
9 estimated average net increase due to the cost of
10 these resources included in the amounts paid by
11 eligible retail customers in connection with electric
12 service to no more than the greater of (i) 2.015% of
13 the amount paid per kilowatthour by those customers
14 during the year ending May 31, 2009 or (ii) the
15 incremental amount per kilowatthour paid for these
16 resources in 2013. These requirements may be altered
17 only as provided by statute.

18 No later than June 30, 2015, the Commission shall
19 review the limitation on the total amount paid under
20 sourcing agreements, if any, with clean coal facilities
21 pursuant to this subsection (d) and report to the General
22 Assembly its findings as to whether that limitation unduly
23 constrains the amount of electricity generated by
24 cost-effective clean coal facilities that is covered by
25 sourcing agreements.

26 (3) Initial clean coal facility. In order to promote

1 development of clean coal facilities in Illinois, each
2 electric utility subject to this Section shall execute a
3 sourcing agreement to source electricity from a proposed
4 clean coal facility in Illinois (the "initial clean coal
5 facility") that will have a nameplate capacity of at least
6 500 MW when commercial operation commences, that has a
7 final Clean Air Act permit on June 1, 2009 (the effective
8 date of Public Act 95-1027), and that will meet the
9 definition of clean coal facility in Section 1-10 of this
10 Act when commercial operation commences. The sourcing
11 agreements with this initial clean coal facility shall be
12 subject to both approval of the initial clean coal
13 facility by the General Assembly and satisfaction of the
14 requirements of paragraph (4) of this subsection (d) and
15 shall be executed within 90 days after any such approval
16 by the General Assembly. The Agency and the Commission
17 shall have authority to inspect all books and records
18 associated with the initial clean coal facility during the
19 term of such a sourcing agreement. A utility's sourcing
20 agreement for electricity produced by the initial clean
21 coal facility shall include:

22 (A) a formula contractual price (the "contract
23 price") approved pursuant to paragraph (4) of this
24 subsection (d), which shall:

25 (i) be determined using a cost of service
26 methodology employing either a level or deferred

1 capital recovery component, based on a capital
2 structure consisting of 45% equity and 55% debt,
3 and a return on equity as may be approved by the
4 Federal Energy Regulatory Commission, which in any
5 case may not exceed the lower of 11.5% or the rate
6 of return approved by the General Assembly
7 pursuant to paragraph (4) of this subsection (d);
8 and

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

25 (B) power purchase provisions, which shall:

26 (i) provide that the utility party to such

1 sourcing agreement shall pay the contract price
2 for electricity delivered under such sourcing
3 agreement;

4 (ii) require delivery of electricity to the
5 regional transmission organization market of the
6 utility that is party to such sourcing agreement;

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

1 this subsection (d); and

2 (iv) be considered pre-existing contracts in
3 such utility's procurement plans for eligible
4 retail customers;

5 (C) contract for differences provisions, which
6 shall:

7 (i) require the utility party to such sourcing
8 agreement to contract with the initial clean coal
9 facility in each hour with respect to an amount of
10 energy equal to all clean coal energy made
11 available from the initial clean coal facility
12 during such hour times a fraction, the numerator
13 of which is such utility's retail market sales of
14 electricity (expressed in kilowatthours sold) in
15 the utility's service territory in the State
16 during the prior calendar month and the
17 denominator of which is the total retail market
18 sales of electricity (expressed in kilowatthours
19 sold) in the State by utilities during such prior
20 month and the sales of electricity (expressed in
21 kilowatthours sold) in the State by alternative
22 retail electric suppliers during such prior month
23 that are subject to the requirements of this
24 subsection (d) and paragraph (5) of subsection (d)
25 of Section 16-115 of the Public Utilities Act,
26 provided that the amount paid by the utility in

1 any year will be limited by paragraph (2) of this
2 subsection (d);

3 (ii) provide that the utility's payment
4 obligation in respect of the quantity of
5 electricity determined pursuant to the preceding
6 clause (i) shall be limited to an amount equal to
7 (1) the difference between the contract price
8 determined pursuant to subparagraph (A) of
9 paragraph (3) of this subsection (d) and the
10 day-ahead price for electricity delivered to the
11 regional transmission organization market of the
12 utility that is party to such sourcing agreement
13 (or any successor delivery point at which such
14 utility's supply obligations are financially
15 settled on an hourly basis) (the "reference
16 price") on the day preceding the day on which the
17 electricity is delivered to the initial clean coal
18 facility busbar, multiplied by (2) the quantity of
19 electricity determined pursuant to the preceding
20 clause (i); and

21 (iii) not require the utility to take physical
22 delivery of the electricity produced by the
23 facility;

24 (D) general provisions, which shall:

25 (i) specify a term of no more than 30 years,
26 commencing on the commercial operation date of the

1 facility;

2 (ii) provide that utilities shall maintain
3 adequate records documenting purchases under the
4 sourcing agreements entered into to comply with
5 this subsection (d) and shall file an accounting
6 with the load forecast that must be filed with the
7 Agency by July 15 of each year, in accordance with
8 subsection (d) of Section 16-111.5 of the Public
9 Utilities Act;

10 (iii) provide that all costs associated with
11 the initial clean coal facility will be
12 periodically reported to the Federal Energy
13 Regulatory Commission and to purchasers in
14 accordance with applicable laws governing
15 cost-based wholesale power contracts;

16 (iv) permit the Illinois Power Agency to
17 assume ownership of the initial clean coal
18 facility, without monetary consideration and
19 otherwise on reasonable terms acceptable to the
20 Agency, if the Agency so requests no less than 3
21 years prior to the end of the stated contract
22 term;

23 (v) require the owner of the initial clean
24 coal facility to provide documentation to the
25 Commission each year, starting in the facility's
26 first year of commercial operation, accurately

1 reporting the quantity of carbon emissions from
2 the facility that have been captured and
3 sequestered and report any quantities of carbon
4 released from the site or sites at which carbon
5 emissions were sequestered in prior years, based
6 on continuous monitoring of such sites. If, in any
7 year after the first year of commercial operation,
8 the owner of the facility fails to demonstrate
9 that the initial clean coal facility captured and
10 sequestered at least 50% of the total carbon
11 emissions that the facility would otherwise emit
12 or that sequestration of emissions from prior
13 years has failed, resulting in the release of
14 carbon dioxide into the atmosphere, the owner of
15 the facility must offset excess emissions. Any
16 such carbon offsets must be permanent, additional,
17 verifiable, real, located within the State of
18 Illinois, and legally and practicably enforceable.
19 The cost of such offsets for the facility that are
20 not recoverable shall not exceed \$15 million in
21 any given year. No costs of any such purchases of
22 carbon offsets may be recovered from a utility or
23 its customers. All carbon offsets purchased for
24 this purpose and any carbon emission credits
25 associated with sequestration of carbon from the
26 facility must be permanently retired. The initial

1 clean coal facility shall not forfeit its
2 designation as a clean coal facility if the
3 facility fails to fully comply with the applicable
4 carbon sequestration requirements in any given
5 year, provided the requisite offsets are
6 purchased. However, the Attorney General, on
7 behalf of the People of the State of Illinois, may
8 specifically enforce the facility's sequestration
9 requirement and the other terms of this contract
10 provision. Compliance with the sequestration
11 requirements and offset purchase requirements
12 specified in paragraph (3) of this subsection (d)
13 shall be reviewed annually by an independent
14 expert retained by the owner of the initial clean
15 coal facility, with the advance written approval
16 of the Attorney General. The Commission may, in
17 the course of the review specified in item (vii),
18 reduce the allowable return on equity for the
19 facility if the facility willfully fails to comply
20 with the carbon capture and sequestration
21 requirements set forth in this item (v);

22 (vi) include limits on, and accordingly
23 provide for modification of, the amount the
24 utility is required to source under the sourcing
25 agreement consistent with paragraph (2) of this
26 subsection (d);

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

16 (viii) limit the utility's obligation to such
17 amount as the utility is allowed to recover
18 through tariffs filed with the Commission,
19 provided that neither the clean coal facility nor
20 the utility waives any right to assert federal
21 pre-emption or any other argument in response to a
22 purported disallowance of recovery costs;

23 (ix) limit the utility's or alternative retail
24 electric supplier's obligation to incur any
25 liability until such time as the facility is in
26 commercial operation and generating power and

1 energy and such power and energy is being
2 delivered to the facility busbar;

3 (x) provide that the owner or owners of the
4 initial clean coal facility, which is the
5 counterparty to such sourcing agreement, shall
6 have the right from time to time to elect whether
7 the obligations of the utility party thereto shall
8 be governed by the power purchase provisions or
9 the contract for differences provisions;

10 (xi) append documentation showing that the
11 formula rate and contract, insofar as they relate
12 to the power purchase provisions, have been
13 approved by the Federal Energy Regulatory
14 Commission pursuant to Section 205 of the Federal
15 Power Act;

16 (xii) provide that any changes to the terms of
17 the contract, insofar as such changes relate to
18 the power purchase provisions, are subject to
19 review under the public interest standard applied
20 by the Federal Energy Regulatory Commission
21 pursuant to Sections 205 and 206 of the Federal
22 Power Act; and

23 (xiii) conform with customary lender
24 requirements in power purchase agreements used as
25 the basis for financing non-utility generators.

26 (4) Effective date of sourcing agreements with the

1 initial clean coal facility. Any proposed sourcing
2 agreement with the initial clean coal facility shall not
3 become effective unless the following reports are prepared
4 and submitted and authorizations and approvals obtained:

5 (i) Facility cost report. The owner of the initial
6 clean coal facility shall submit to the Commission,
7 the Agency, and the General Assembly a front-end
8 engineering and design study, a facility cost report,
9 method of financing (including but not limited to
10 structure and associated costs), and an operating and
11 maintenance cost quote for the facility (collectively
12 "facility cost report"), which shall be prepared in
13 accordance with the requirements of this paragraph (4)
14 of subsection (d) of this Section, and shall provide
15 the Commission and the Agency access to the work
16 papers, relied upon documents, and any other backup
17 documentation related to the facility cost report.

18 (ii) Commission report. Within 6 months following
19 receipt of the facility cost report, the Commission,
20 in consultation with the Agency, shall submit a report
21 to the General Assembly setting forth its analysis of
22 the facility cost report. Such report shall include,
23 but not be limited to, a comparison of the costs
24 associated with electricity generated by the initial
25 clean coal facility to the costs associated with
26 electricity generated by other types of generation

1 facilities, an analysis of the rate impacts on
2 residential and small business customers over the life
3 of the sourcing agreements, and an analysis of the
4 likelihood that the initial clean coal facility will
5 commence commercial operation by and be delivering
6 power to the facility's busbar by 2016. To assist in
7 the preparation of its report, the Commission, in
8 consultation with the Agency, may hire one or more
9 experts or consultants, the costs of which shall be
10 paid for by the owner of the initial clean coal
11 facility. The Commission and Agency may begin the
12 process of selecting such experts or consultants prior
13 to receipt of the facility cost report.

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

25 (iv) Commission review. If the General Assembly
26 enacts authorizing legislation pursuant to

1 subparagraph (iii) approving a sourcing agreement, the
2 Commission shall, within 90 days of such enactment,
3 complete a review of such sourcing agreement. During
4 such time period, the Commission shall implement any
5 directive of the General Assembly, resolve any
6 disputes between the parties to the sourcing agreement
7 concerning the terms of such agreement, approve the
8 form of such agreement, and issue an order finding
9 that the sourcing agreement is prudent and reasonable.
10 The facility cost report shall be prepared as follows:

11 (A) The facility cost report shall be prepared by
12 duly licensed engineering and construction firms
13 detailing the estimated capital costs payable to one
14 or more contractors or suppliers for the engineering,
15 procurement and construction of the components
16 comprising the initial clean coal facility and the
17 estimated costs of operation and maintenance of the
18 facility. The facility cost report shall include:

19 (i) an estimate of the capital cost of the
20 core plant based on one or more front end
21 engineering and design studies for the
22 gasification island and related facilities. The
23 core plant shall include all civil, structural,
24 mechanical, electrical, control, and safety
25 systems.

26 (ii) an estimate of the capital cost of the

1 balance of the plant, including any capital costs
2 associated with sequestration of carbon dioxide
3 emissions and all interconnects and interfaces
4 required to operate the facility, such as
5 transmission of electricity, construction or
6 backfeed power supply, pipelines to transport
7 substitute natural gas or carbon dioxide, potable
8 water supply, natural gas supply, water supply,
9 water discharge, landfill, access roads, and coal
10 delivery.

11 The quoted construction costs shall be expressed
12 in nominal dollars as of the date that the quote is
13 prepared and shall include capitalized financing costs
14 during construction, taxes, insurance, and other
15 owner's costs, and an assumed escalation in materials
16 and labor beyond the date as of which the construction
17 cost quote is expressed.

18 (B) The front end engineering and design study for
19 the gasification island and the cost study for the
20 balance of plant shall include sufficient design work
21 to permit quantification of major categories of
22 materials, commodities and labor hours, and receipt of
23 quotes from vendors of major equipment required to
24 construct and operate the clean coal facility.

25 (C) The facility cost report shall also include an
26 operating and maintenance cost quote that will provide

1 the estimated cost of delivered fuel, personnel,
2 maintenance contracts, chemicals, catalysts,
3 consumables, spares, and other fixed and variable
4 operations and maintenance costs. The delivered fuel
5 cost estimate will be provided by a recognized third
6 party expert or experts in the fuel and transportation
7 industries. The balance of the operating and
8 maintenance cost quote, excluding delivered fuel
9 costs, will be developed based on the inputs provided
10 by duly licensed engineering and construction firms
11 performing the construction cost quote, potential
12 vendors under long-term service agreements and plant
13 operating agreements, or recognized third party plant
14 operator or operators.

15 The operating and maintenance cost quote
16 (including the cost of the front end engineering and
17 design study) shall be expressed in nominal dollars as
18 of the date that the quote is prepared and shall
19 include taxes, insurance, and other owner's costs, and
20 an assumed escalation in materials and labor beyond
21 the date as of which the operating and maintenance
22 cost quote is expressed.

23 (D) The facility cost report shall also include an
24 analysis of the initial clean coal facility's ability
25 to deliver power and energy into the applicable
26 regional transmission organization markets and an

1 analysis of the expected capacity factor for the
2 initial clean coal facility.

3 (E) Amounts paid to third parties unrelated to the
4 owner or owners of the initial clean coal facility to
5 prepare the core plant construction cost quote,
6 including the front end engineering and design study,
7 and the operating and maintenance cost quote will be
8 reimbursed through Coal Development Bonds.

9 (5) Re-powering and retrofitting coal-fired power
10 plants previously owned by Illinois utilities to qualify
11 as clean coal facilities. During the 2009 procurement
12 planning process and thereafter, the Agency and the
13 Commission shall consider sourcing agreements covering
14 electricity generated by power plants that were previously
15 owned by Illinois utilities and that have been or will be
16 converted into clean coal facilities, as defined by
17 Section 1-10 of this Act. Pursuant to such procurement
18 planning process, the owners of such facilities may
19 propose to the Agency sourcing agreements with utilities
20 and alternative retail electric suppliers required to
21 comply with subsection (d) of this Section and item (5) of
22 subsection (d) of Section 16-115 of the Public Utilities
23 Act, covering electricity generated by such facilities. In
24 the case of sourcing agreements that are power purchase
25 agreements, the contract price for electricity sales shall
26 be established on a cost of service basis. In the case of

1 sourcing agreements that are contracts for differences,
2 the contract price from which the reference price is
3 subtracted shall be established on a cost of service
4 basis. The Agency and the Commission may approve any such
5 utility sourcing agreements that do not exceed cost-based
6 benchmarks developed by the procurement administrator, in
7 consultation with the Commission staff, Agency staff and
8 the procurement monitor, subject to Commission review and
9 approval. The Commission shall have authority to inspect
10 all books and records associated with these clean coal
11 facilities during the term of any such contract.

12 (6) Costs incurred under this subsection (d) or
13 pursuant to a contract entered into under this subsection
14 (d) shall be deemed prudently incurred and reasonable in
15 amount and the electric utility shall be entitled to full
16 cost recovery pursuant to the tariffs filed with the
17 Commission.

18 (d-5) Zero emission standard.

19 (1) Beginning with the delivery year commencing on
20 June 1, 2017, the Agency shall, for electric utilities
21 that serve at least 100,000 retail customers in this
22 State, procure contracts with zero emission facilities
23 that are reasonably capable of generating cost-effective
24 zero emission credits in an amount approximately equal to
25 16% of the actual amount of electricity delivered by each
26 electric utility to retail customers in the State during

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

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

26 The procurement process shall be subject to the

1 following provisions:

2 (A) Those zero emission facilities that intend to
3 participate in the procurement shall submit to the
4 Agency the following eligibility information for each
5 zero emission facility on or before the date
6 established by the Agency:

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

9 (ii) the amount of power generated annually
10 for each of the years 2005 through 2015, and the
11 projected zero emission credits to be generated
12 over the remaining useful life of the zero
13 emission facility, which shall be used to
14 determine the capability of each facility;

15 (iii) the annual zero emission facility cost
16 projections, expressed on a per megawatt hour
17 ~~megawatt hour~~ basis, over the next 6 delivery
18 years, which shall include the following:
19 operation and maintenance expenses; fully
20 allocated overhead costs, which shall be allocated
21 using the methodology developed by the Institute
22 for Nuclear Power Operations; fuel expenditures;
23 non-fuel capital expenditures; spent fuel
24 expenditures; a return on working capital; the
25 cost of operational and market risks that could be
26 avoided by ceasing operation; and any other costs

1 necessary for continued operations, provided that
2 "necessary" means, for purposes of this item
3 (iii), that the costs could reasonably be avoided
4 only by ceasing operations of the zero emission
5 facility; and

6 (iv) a commitment to continue operating, for
7 the duration of the contract or contracts executed
8 under the procurement held under this subsection
9 (d-5), the zero emission facility that produces
10 the zero emission credits to be procured in the
11 procurement.

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

23 (B) The price for each zero emission credit
24 procured under this subsection (d-5) for each delivery
25 year shall be in an amount that equals the Social Cost
26 of Carbon, expressed on a price per megawatt hour

1 ~~megawatthour~~ basis. However, to ensure that the
2 procurement remains affordable to retail customers in
3 this State if electricity prices increase, the price
4 in an applicable delivery year shall be reduced below
5 the Social Cost of Carbon by the amount ("Price
6 Adjustment") by which the market price index for the
7 applicable delivery year exceeds the baseline market
8 price index for the consecutive 12-month period ending
9 May 31, 2016. If the Price Adjustment is greater than
10 or equal to the Social Cost of Carbon in an applicable
11 delivery year, then no payments shall be due in that
12 delivery year. The components of this calculation are
13 defined as follows:

14 (i) Social Cost of Carbon: The Social Cost of
15 Carbon is \$16.50 per megawatt hour ~~megawatthour~~,
16 which is based on the U.S. Interagency Working
17 Group on Social Cost of Carbon's price in the
18 August 2016 Technical Update using a 3% discount
19 rate, adjusted for inflation for each year of the
20 program. Beginning with the delivery year
21 commencing June 1, 2023, the price per megawatt
22 hour ~~megawatthour~~ shall increase by \$1 per
23 megawatt hour ~~megawatthour~~, and continue to
24 increase by an additional \$1 per megawatt hour
25 ~~megawatthour~~ each delivery year thereafter.

26 (ii) Baseline market price index: The baseline

1 market price index for the consecutive 12-month
2 period ending May 31, 2016 is \$31.40 per megawatt
3 hour ~~megawatthour~~, which is based on the sum of
4 (aa) the average day-ahead energy price across all
5 hours of such 12-month period at the PJM
6 Interconnection LLC Northern Illinois Hub, (bb)
7 50% multiplied by the Base Residual Auction, or
8 its successor, capacity price for the rest of the
9 RTO zone group determined by PJM Interconnection
10 LLC, divided by 24 hours per day, and (cc) 50%
11 multiplied by the Planning Resource Auction, or
12 its successor, capacity price for Zone 4
13 determined by the Midcontinent Independent System
14 Operator, Inc., divided by 24 hours per day.

15 (iii) Market price index: The market price
16 index for a delivery year shall be the sum of
17 projected energy prices and projected capacity
18 prices determined as follows:

19 (aa) Projected energy prices: the
20 projected energy prices for the applicable
21 delivery year shall be calculated once for the
22 year using the forward market price for the
23 PJM Interconnection, LLC Northern Illinois
24 Hub. The forward market price shall be
25 calculated as follows: the energy forward
26 prices for each month of the applicable

1 delivery year averaged for each trade date
2 during the calendar year immediately preceding
3 that delivery year to produce a single energy
4 forward price for the delivery year. The
5 forward market price calculation shall use
6 data published by the Intercontinental
7 Exchange, or its successor.

8 (bb) Projected capacity prices:

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

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

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

19 "Rest of the RTO" and "ComEd Zone" shall have
20 the meaning ascribed to them by PJM
21 Interconnection, LLC.

22 "RTO" means regional transmission
23 organization.

24 (C) No later than 45 days after June 1, 2017 (the
25 effective date of Public Act 99-906), the Agency shall
26 publish its proposed zero emission standard

1 procurement plan. The plan shall be consistent with
2 the provisions of this paragraph (1) and shall provide
3 that winning bids shall be selected based on public
4 interest criteria that include, but are not limited
5 to, minimizing carbon dioxide emissions that result
6 from electricity consumed in Illinois and minimizing
7 sulfur dioxide, nitrogen oxide, and particulate matter
8 emissions that adversely affect the citizens of this
9 State. In particular, the selection of winning bids
10 shall take into account the incremental environmental
11 benefits resulting from the procurement, such as any
12 existing environmental benefits that are preserved by
13 the procurements held under Public Act 99-906 and
14 would cease to exist if the procurements were not
15 held, including the preservation of zero emission
16 facilities. The plan shall also describe in detail how
17 each public interest factor shall be considered and
18 weighted in the bid selection process to ensure that
19 the public interest criteria are applied to the
20 procurement and given full effect.

21 For purposes of developing the plan, the Agency
22 shall consider any reports issued by a State agency,
23 board, or commission under House Resolution 1146 of
24 the 98th General Assembly and paragraph (4) of
25 subsection (d) of this Section, as well as publicly
26 available analyses and studies performed by or for

1 regional transmission organizations that serve the
2 State and their independent market monitors.

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

15 If the Commission determines that the plan will
16 result in the procurement of cost-effective zero
17 emission credits, then the Commission shall, after
18 notice and hearing, but no later than 45 days after the
19 Agency filed the plan, approve the plan or approve
20 with modification. For purposes of this subsection
21 (d-5), "cost effective" means the projected costs of
22 procuring zero emission credits from zero emission
23 facilities do not cause the limit stated in paragraph
24 (2) of this subsection to be exceeded.

25 (C-5) As part of the Commission's review and
26 acceptance or rejection of the procurement results,

1 the Commission shall, in its public notice of
2 successful bidders:

3 (i) identify how the winning bids satisfy the
4 public interest criteria described in subparagraph
5 (C) of this paragraph (1) of minimizing carbon
6 dioxide emissions that result from electricity
7 consumed in Illinois and minimizing sulfur
8 dioxide, nitrogen oxide, and particulate matter
9 emissions that adversely affect the citizens of
10 this State;

11 (ii) specifically address how the selection of
12 winning bids takes into account the incremental
13 environmental benefits resulting from the
14 procurement, including any existing environmental
15 benefits that are preserved by the procurements
16 held under Public Act 99-906 and would have ceased
17 to exist if the procurements had not been held,
18 such as the preservation of zero emission
19 facilities;

20 (iii) quantify the environmental benefit of
21 preserving the resources identified in item (ii)
22 of this subparagraph (C-5), including the
23 following:

24 (aa) the value of avoided greenhouse gas
25 emissions measured as the product of the zero
26 emission facilities' output over the contract

1 term multiplied by the U.S. Environmental
2 Protection Agency eGrid subregion carbon
3 dioxide emission rate and the U.S. Interagency
4 Working Group on Social Cost of Carbon's price
5 in the August 2016 Technical Update using a 3%
6 discount rate, adjusted for inflation for each
7 delivery year; and

8 (bb) the costs of replacement with other
9 zero carbon dioxide resources, including wind
10 and photovoltaic, based upon the simple
11 average of the following:

12 (I) the price, or if there is more
13 than one price, the average of the prices,
14 paid for renewable energy credits from new
15 utility-scale wind projects in the
16 procurement events specified in item (i)
17 of subparagraph (G) of paragraph (1) of
18 subsection (c) of this Section; and

19 (II) the price, or if there is more
20 than one price, the average of the prices,
21 paid for renewable energy credits from new
22 utility-scale solar projects and
23 brownfield site photovoltaic projects in
24 the procurement events specified in item
25 (ii) of subparagraph (G) of paragraph (1)
26 of subsection (c) of this Section and,

1 after January 1, 2015, renewable energy
2 credits from photovoltaic distributed
3 generation projects in procurement events
4 held under subsection (c) of this Section.

5 Each utility shall enter into binding contractual
6 arrangements with the winning suppliers.

7 The procurement described in this subsection
8 (d-5), including, but not limited to, the execution of
9 all contracts procured, shall be completed no later
10 than May 10, 2017. Based on the effective date of
11 Public Act 99-906, the Agency and Commission may, as
12 appropriate, modify the various dates and timelines
13 under this subparagraph and subparagraphs (C) and (D)
14 of this paragraph (1). The procurement and plan
15 approval processes required by this subsection (d-5)
16 shall be conducted in conjunction with the procurement
17 and plan approval processes required by subsection (c)
18 of this Section and Section 16-111.5 of the Public
19 Utilities Act, to the extent practicable.
20 Notwithstanding whether a procurement event is
21 conducted under Section 16-111.5 of the Public
22 Utilities Act, the Agency shall immediately initiate a
23 procurement process on June 1, 2017 (the effective
24 date of Public Act 99-906).

25 (D) Following the procurement event described in
26 this paragraph (1) and consistent with subparagraph

1 (B) of this paragraph (1), the Agency shall calculate
2 the payments to be made under each contract for the
3 next delivery year based on the market price index for
4 that delivery year. The Agency shall publish the
5 payment calculations no later than May 25, 2017 and
6 every May 25 thereafter.

7 (E) Notwithstanding the requirements of this
8 subsection (d-5), the contracts executed under this
9 subsection (d-5) shall provide that the zero emission
10 facility may, as applicable, suspend or terminate
11 performance under the contracts in the following
12 instances:

13 (i) A zero emission facility shall be excused
14 from its performance under the contract for any
15 cause beyond the control of the resource,
16 including, but not restricted to, acts of God,
17 flood, drought, earthquake, storm, fire,
18 lightning, epidemic, war, riot, civil disturbance
19 or disobedience, labor dispute, labor or material
20 shortage, sabotage, acts of public enemy,
21 explosions, orders, regulations or restrictions
22 imposed by governmental, military, or lawfully
23 established civilian authorities, which, in any of
24 the foregoing cases, by exercise of commercially
25 reasonable efforts the zero emission facility
26 could not reasonably have been expected to avoid,

1 and which, by the exercise of commercially
2 reasonable efforts, it has been unable to
3 overcome. In such event, the zero emission
4 facility shall be excused from performance for the
5 duration of the event, including, but not limited
6 to, delivery of zero emission credits, and no
7 payment shall be due to the zero emission facility
8 during the duration of the event.

9 (ii) A zero emission facility shall be
10 permitted to terminate the contract if legislation
11 is enacted into law by the General Assembly that
12 imposes or authorizes a new tax, special
13 assessment, or fee on the generation of
14 electricity, the ownership or leasehold of a
15 generating unit, or the privilege or occupation of
16 such generation, ownership, or leasehold of
17 generation units by a zero emission facility.
18 However, the provisions of this item (ii) do not
19 apply to any generally applicable tax, special
20 assessment or fee, or requirements imposed by
21 federal law.

22 (iii) A zero emission facility shall be
23 permitted to terminate the contract in the event
24 that the resource requires capital expenditures in
25 excess of \$40,000,000 that were neither known nor
26 reasonably foreseeable at the time it executed the

1 contract and that a prudent owner or operator of
2 such resource would not undertake.

3 (iv) A zero emission facility shall be
4 permitted to terminate the contract in the event
5 the Nuclear Regulatory Commission terminates the
6 resource's license.

7 (F) If the zero emission facility elects to
8 terminate a contract under subparagraph (E) of this
9 paragraph (1), then the Commission shall reopen the
10 docket in which the Commission approved the zero
11 emission standard procurement plan under subparagraph
12 (C) of this paragraph (1) and, after notice and
13 hearing, enter an order acknowledging the contract
14 termination election if such termination is consistent
15 with the provisions of this subsection (d-5).

16 (2) For purposes of this subsection (d-5), the amount
17 paid per kilowatthour means the total amount paid for
18 electric service expressed on a per kilowatthour basis.
19 For purposes of this subsection (d-5), the total amount
20 paid for electric service includes, without limitation,
21 amounts paid for supply, transmission, distribution,
22 surcharges, and add-on taxes.

23 Notwithstanding the requirements of this subsection
24 (d-5), the contracts executed under this subsection (d-5)
25 shall provide that the total of zero emission credits
26 procured under a procurement plan shall be subject to the

1 limitations of this paragraph (2). For each delivery year,
2 the contractual volume receiving payments in such year
3 shall be reduced for all retail customers based on the
4 amount necessary to limit the net increase that delivery
5 year to the costs of those credits included in the amounts
6 paid by eligible retail customers in connection with
7 electric service to no more than 1.65% of the amount paid
8 per kilowatthour by eligible retail customers during the
9 year ending May 31, 2009. The result of this computation
10 shall apply to and reduce the procurement for all retail
11 customers, and all those customers shall pay the same
12 single, uniform cents per kilowatthour charge under
13 subsection (k) of Section 16-108 of the Public Utilities
14 Act. To arrive at a maximum dollar amount of zero emission
15 credits to be paid for the particular delivery year, the
16 resulting per kilowatthour amount shall be applied to the
17 actual amount of kilowatthours of electricity delivered by
18 the electric utility in the delivery year immediately
19 prior to the procurement, to all retail customers in its
20 service territory. Unpaid contractual volume for any
21 delivery year shall be paid in any subsequent delivery
22 year in which such payments can be made without exceeding
23 the amount specified in this paragraph (2). The
24 calculations required by this paragraph (2) shall be made
25 only once for each procurement plan year. Once the
26 determination as to the amount of zero emission credits to

1 be paid is made based on the calculations set forth in this
2 paragraph (2), no subsequent rate impact determinations
3 shall be made and no adjustments to those contract amounts
4 shall be allowed. All costs incurred under those contracts
5 and in implementing this subsection (d-5) shall be
6 recovered by the electric utility as provided in this
7 Section.

8 No later than June 30, 2019, the Commission shall
9 review the limitation on the amount of zero emission
10 credits procured under this subsection (d-5) and report to
11 the General Assembly its findings as to whether that
12 limitation unduly constrains the procurement of
13 cost-effective zero emission credits.

14 (3) Six years after the execution of a contract under
15 this subsection (d-5), the Agency shall determine whether
16 the actual zero emission credit payments received by the
17 supplier over the 6-year period exceed the Average ZEC
18 Payment. In addition, at the end of the term of a contract
19 executed under this subsection (d-5), or at the time, if
20 any, a zero emission facility's contract is terminated
21 under subparagraph (E) of paragraph (1) of this subsection
22 (d-5), then the Agency shall determine whether the actual
23 zero emission credit payments received by the supplier
24 over the term of the contract exceed the Average ZEC
25 Payment, after taking into account any amounts previously
26 credited back to the utility under this paragraph (3). If

1 the Agency determines that the actual zero emission credit
2 payments received by the supplier over the relevant period
3 exceed the Average ZEC Payment, then the supplier shall
4 credit the difference back to the utility. The amount of
5 the credit shall be remitted to the applicable electric
6 utility no later than 120 days after the Agency's
7 determination, which the utility shall reflect as a credit
8 on its retail customer bills as soon as practicable;
9 however, the credit remitted to the utility shall not
10 exceed the total amount of payments received by the
11 facility under its contract.

12 For purposes of this Section, the Average ZEC Payment
13 shall be calculated by multiplying the quantity of zero
14 emission credits delivered under the contract times the
15 average contract price. The average contract price shall
16 be determined by subtracting the amount calculated under
17 subparagraph (B) of this paragraph (3) from the amount
18 calculated under subparagraph (A) of this paragraph (3),
19 as follows:

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

23 (B) The average of the market price indices, as
24 defined in subparagraph (B) of paragraph (1) of this
25 subsection (d-5), during the term of the contract,
26 minus the baseline market price index, as defined in

1 subparagraph (B) of paragraph (1) of this subsection
2 (d-5).

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

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

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

11 (6) Electric utilities shall be entitled to recover
12 all of the costs associated with the procurement of zero
13 emission credits through an automatic adjustment clause
14 tariff in accordance with subsection (k) and (m) of
15 Section 16-108 of the Public Utilities Act, and the
16 contracts executed under this subsection (d-5) shall
17 provide that the utilities' payment obligations under such
18 contracts shall be reduced if an adjustment is required
19 under subsection (m) of Section 16-108 of the Public
20 Utilities Act.

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

23 (d-10) Nuclear Plant Assistance; carbon mitigation
24 credits.

25 (1) The General Assembly finds:

26 (A) The health, welfare, and prosperity of all

1 Illinois citizens require that the State of Illinois act
2 to avoid and not increase carbon emissions from electric
3 generation sources while continuing to ensure affordable,
4 stable, and reliable electricity to all citizens.

5 (B) Absent immediate action by the State to preserve
6 existing carbon-free energy resources, those resources may
7 retire, and the electric generation needs of Illinois'
8 retail customers may be met instead by facilities that
9 emit significant amounts of carbon pollution and other
10 harmful air pollutants at a high social and economic cost
11 until Illinois is able to develop other forms of clean
12 energy.

13 (C) The General Assembly finds that nuclear power
14 generation is necessary for the State's transition to 100%
15 clean energy, and ensuring continued operation of nuclear
16 plants advances environmental and public health interests
17 through providing carbon-free electricity while reducing
18 the air pollution profile of the Illinois energy
19 generation fleet.

20 (D) The clean energy attributes of nuclear generation
21 facilities support the State in its efforts to achieve
22 100% clean energy.

23 (E) The State currently invests in various forms of
24 clean energy, including, but not limited to, renewable
25 energy, energy efficiency, and low-emission vehicles,
26 among others.

1 (F) The Environmental Protection Agency commissioned
2 an independent audit which provided a detailed assessment
3 of the financial condition of the Illinois nuclear fleet
4 to evaluate its financial viability and whether the
5 environmental benefits of such resources were at risk. The
6 report identified the risk of losing the environmental
7 benefits of several specific nuclear units. The report
8 also identified that the LaSalle County Generating Station
9 will continue to operate through 2026 and therefore is not
10 eligible to participate in the carbon mitigation credit
11 program.

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

15 (H) The procurement of carbon mitigation credits
16 representing the environmental benefits of carbon-free
17 generation will further the State's efforts at achieving
18 100% clean energy and decarbonizing the electricity sector
19 in a safe, reliable, and affordable manner. Further, the
20 procurement of carbon emission credits will enhance the
21 health and welfare of Illinois residents through decreased
22 reliance on more highly polluting generation.

23 (I) The General Assembly therefore finds it necessary
24 to establish carbon mitigation credits to ensure decreased
25 reliance on more carbon-intensive energy resources, for
26 transitioning to a fully decarbonized electricity sector,

1 and to help ensure health and welfare of the State's
2 residents.

3 (2) As used in this subsection:

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

18 "Carbon mitigation credit" means a tradable credit that
19 represents the carbon emission reduction attributes of one
20 megawatt-hour of energy produced from a carbon-free energy
21 resource.

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

25 (3) Procurement.

26 (A) Beginning with the delivery year commencing on

1 June 1, 2022, the Agency shall, for electric utilities
2 serving at least 3,000,000 retail customers in the State,
3 seek to procure contracts for no more than approximately
4 54,500,000 cost-effective carbon mitigation credits from
5 carbon-free energy resources because such credits are
6 necessary to support current levels of carbon-free energy
7 generation and ensure the State meets its carbon dioxide
8 emissions reduction goals. The Agency shall not make a
9 partial award of a contract for carbon mitigation credits
10 covering a fractional amount of a carbon-free energy
11 resource's projected output.

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

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

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

21 (iii) a commitment to be reflected in any contract
22 entered into pursuant to this subsection (d-10) to
23 continue operating the carbon-free energy resource at
24 a capacity factor of at least 88% annually on average
25 for the duration of the contract or contracts executed
26 under the procurement held under this subsection

1 (d-10), except in an instance described in
2 subparagraph (E) of paragraph (1) of subsection (d-5)
3 of this Section or made impracticable as a result of
4 compliance with law or regulation;

5 (iv) financial need and the risk of loss of the
6 environmental benefits of such resource, which shall
7 include the following information:

8 (I) the carbon-free energy resource's cost
9 projections, expressed on a per megawatt-hour
10 basis, over the next 5 delivery years, which shall
11 include the following: operation and maintenance
12 expenses; fully allocated overhead costs, which
13 shall be allocated using the methodology developed
14 by the Institute for Nuclear Power Operations;
15 fuel expenditures; nonfuel capital expenditures;
16 spent fuel expenditures; a return on working
17 capital; the cost of operational and market risks
18 that could be avoided by ceasing operation; and
19 any other costs necessary for continued
20 operations, provided that "necessary" means, for
21 purposes of this subitem (I), that the costs could
22 reasonably be avoided only by ceasing operations
23 of the carbon-free energy resource; and

24 (II) the carbon-free energy resource's revenue
25 projections, including energy, capacity, ancillary
26 services, any other direct State support, known or

1 anticipated federal attribute credits, known or
2 anticipated tax credits, and any other direct
3 federal support.

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

14 (C) The Agency shall solicit bids for the contracts
15 described in this subsection (d-10) from carbon-free
16 energy resources that have satisfied the requirements of
17 subparagraph (B) of this paragraph (3). The contracts
18 procured pursuant to a procurement event shall reflect,
19 and be subject to, the following terms, requirements, and
20 limitations:

21 (i) Contracts are for delivery of carbon
22 mitigation credits, and are not energy or capacity
23 sales contracts requiring physical delivery. Pursuant
24 to item (iii), contract payments shall fully deduct
25 the value of any monetized federal production tax
26 credits, credits issued pursuant to a federal clean

1 energy standard, and other federal credits if
2 applicable.

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

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

10 (I) one of the following energy price indices,
11 selected by the bidder at the time of the bid for
12 the term of the contract:

13 (aa) the weighted-average hourly day-ahead
14 price for the applicable delivery year at the
15 busbar of all resources procured pursuant to
16 this subsection (d-10), weighted by actual
17 production from the resources; or

18 (bb) the projected energy price for the
19 PJM Interconnection, LLC Northern Illinois Hub
20 for the applicable delivery year determined
21 according to subitem (aa) of item (iii) of
22 subparagraph (B) of paragraph (1) of
23 subsection (d-5).

24 (II) the Base Residual Auction Capacity Price
25 for the ComEd zone as determined by PJM
26 Interconnection, LLC, divided by 24 hours per day,

1 for the applicable delivery year for the first 3
2 delivery years, and then any subsequent delivery
3 years unless the PJM Interconnection, LLC applies
4 the Minimum Offer Price Rule to participating
5 carbon-free energy resources because they supply
6 carbon mitigation credits pursuant to this Section
7 at which time, upon notice by the carbon-free
8 energy resource to the Commission and subject to
9 the Commission's confirmation, the value under
10 this subitem shall be zero, as further described
11 in the carbon mitigation credit procurement plan;
12 and

13 (III) any value of monetized federal tax
14 credits, direct payments, or similar subsidy
15 provided to the carbon-free energy resource from
16 any unit of government that is not already
17 reflected in energy prices.

18 If the price-per-megawatt-hour calculation
19 performed under item (iii) of this subparagraph (C)
20 for a given delivery year results in a net positive
21 value, then the electric utility counterparty to the
22 contract shall multiply such net value by the
23 applicable contract quantity and remit the amount to
24 the supplier.

25 To protect retail customers from retail rate
26 impacts that may arise upon the initiation of carbon

1 policy changes, if the price-per-megawatt-hour
2 calculation performed under item (iii) of this
3 subparagraph (C) for a given delivery year results in
4 a net negative value, then the supplier counterparty
5 to the contract shall multiply such net value by the
6 applicable contract quantity and remit such amount to
7 the electric utility counterparty. The electric
8 utility shall reflect such amounts remitted by
9 suppliers as a credit on its retail customer bills as
10 soon as practicable.

11 (iv) To ensure that retail customers in Northern
12 Illinois do not pay more for carbon mitigation credits
13 than the value such credits provide, and
14 notwithstanding the provisions of this subsection
15 (d-10), the Agency shall not accept bids for contracts
16 that exceed a customer protection cap equal to the
17 baseline costs of carbon-free energy resources.

18 The baseline costs for the applicable year shall
19 be the following:

20 (I) For the delivery year beginning June 1,
21 2022, the baseline costs shall be an amount equal
22 to \$30.30 per megawatt-hour.

23 (II) For the delivery year beginning June 1,
24 2023, the baseline costs shall be an amount equal
25 to \$32.50 per megawatt-hour.

26 (III) For the delivery year beginning June 1,

1 2024, the baseline costs shall be an amount equal
2 to \$33.43 per megawatt-hour.

3 (IV) For the delivery year beginning June 1,
4 2025, the baseline costs shall be an amount equal
5 to \$33.50 per megawatt-hour.

6 (V) For the delivery year beginning June 1,
7 2026, the baseline costs shall be an amount equal
8 to \$34.50 per megawatt-hour.

9 An Environmental Protection Agency consultant
10 forecast, included in a report issued April 14, 2021,
11 projects that a carbon-free energy resource has the
12 opportunity to earn on average approximately \$30.28
13 per megawatt-hour, for the sale of energy and capacity
14 during the time period between 2022 and 2027.
15 Therefore, the sale of carbon mitigation credits
16 provides the opportunity to receive an additional
17 amount per megawatt-hour in addition to the projected
18 prices for energy and capacity.

19 Although actual energy and capacity prices may
20 vary from year-to-year, the General Assembly finds
21 that this customer protection cap will help ensure
22 that the cost of carbon mitigation credits will be
23 less than its value, based upon the social cost of
24 carbon identified in the Technical Support Document
25 issued in February 2021 by the U.S. Interagency
26 Working Group on Social Cost of Greenhouse Gases and

1 the PJM Interconnection, LLC carbon dioxide marginal
2 emission rate for 2020, and that a carbon-free energy
3 resource receiving payment for carbon mitigation
4 credits receives no more than necessary to keep those
5 units in operation.

6 (D) No later than 7 days after the effective date of
7 this amendatory Act of the 102nd General Assembly, the
8 Agency shall publish its proposed carbon mitigation credit
9 procurement plan. The Plan shall provide that winning bids
10 shall be selected by taking into consideration which
11 resources best match public interest criteria that
12 include, but are not limited to, minimizing carbon dioxide
13 emissions that result from electricity consumed in
14 Illinois and minimizing sulfur dioxide, nitrogen oxide,
15 and particulate matter emissions that adversely affect the
16 citizens of this State. The selection of winning bids
17 shall also take into account the incremental environmental
18 benefits resulting from the procurement or procurements,
19 such as any existing environmental benefits that are
20 preserved by a procurement held under this subsection
21 (d-10) and would cease to exist if the procurement were
22 not held, including the preservation of carbon-free energy
23 resources. For those bidders having the same public
24 interest criteria score, the relative ranking of such
25 bidders shall be determined by price. The Plan shall
26 describe in detail how each public interest factor shall

1 be considered and weighted in the bid selection process to
2 ensure that the public interest criteria are applied to
3 the procurement. The Plan shall, to the extent practical
4 and permissible by federal law, ensure that successful
5 bidders make commercially reasonable efforts to apply for
6 federal tax credits, direct payments, or similar subsidy
7 programs that support carbon-free generation and for which
8 the successful bidder is eligible. Upon publishing of the
9 carbon mitigation credit procurement plan, copies of the
10 plan shall be posted and made publicly available on the
11 Agency's website. All interested parties shall have 7 days
12 following the date of posting to provide comment to the
13 Agency on the plan. All comments shall be posted to the
14 Agency's website. Following the end of the comment period,
15 but no more than 19 days later than the effective date of
16 this amendatory Act of the 102nd General Assembly, the
17 Agency shall revise the plan as necessary based on the
18 comments received and file its carbon mitigation credit
19 procurement plan with the Commission.

20 (E) If the Commission determines that the plan is
21 likely to result in the procurement of cost-effective
22 carbon mitigation credits, then the Commission shall,
23 after notice and hearing and opportunity for comment, but
24 no later than 42 days after the Agency filed the plan,
25 approve the plan or approve it with modification. For
26 purposes of this subsection (d-10), "cost-effective" means

1 carbon mitigation credits that are procured from
2 carbon-free energy resources at prices that are within the
3 limits specified in this paragraph (3). As part of the
4 Commission's review and acceptance or rejection of the
5 procurement results, the Commission shall, in its public
6 notice of successful bidders:

7 (i) identify how the selected carbon-free energy
8 resources satisfy the public interest criteria
9 described in this paragraph (3) of minimizing carbon
10 dioxide emissions that result from electricity
11 consumed in Illinois and minimizing sulfur dioxide,
12 nitrogen oxide, and particulate matter emissions that
13 adversely affect the citizens of this State;

14 (ii) specifically address how the selection of
15 carbon-free energy resources takes into account the
16 incremental environmental benefits resulting from the
17 procurement, including any existing environmental
18 benefits that are preserved by the procurements held
19 under this amendatory Act of the 102nd General
20 Assembly and would have ceased to exist if the
21 procurements had not been held, such as the
22 preservation of carbon-free energy resources;

23 (iii) quantify the environmental benefit of
24 preserving the carbon-free energy resources procured
25 pursuant to this subsection (d-10), including the
26 following:

1 (I) an assessment value of avoided greenhouse
2 gas emissions measured as the product of the
3 carbon-free energy resources' output over the
4 contract term, using generally accepted
5 methodologies for the valuation of avoided
6 emissions; and

7 (II) an assessment of costs of replacement
8 with other carbon-free energy resources and
9 renewable energy resources, including wind and
10 photovoltaic generation, based upon an assessment
11 of the prices paid for renewable energy credits
12 through programs and procurements conducted
13 pursuant to subsection (c) of Section 1-75 of this
14 Act, and the additional storage necessary to
15 produce the same or similar capability of matching
16 customer usage patterns.

17 (F) The procurements described in this paragraph (3),
18 including, but not limited to, the execution of all
19 contracts procured, shall be completed no later than
20 December 3, 2021. The procurement and plan approval
21 processes required by this paragraph (3) shall be
22 conducted in conjunction with the procurement and plan
23 approval processes required by Section 16-111.5 of the
24 Public Utilities Act, to the extent practicable. However,
25 the Agency and Commission may, as appropriate, modify the
26 various dates and timelines under this subparagraph and

1 subparagraphs (D) and (E) of this paragraph (3) to meet
2 the December 3, 2021 contract execution deadline.
3 Following the completion of such procurements, and
4 consistent with this paragraph (3), the Agency shall
5 calculate the payments to be made under each contract in a
6 timely fashion.

7 (F-1) Costs incurred by the electric utility pursuant
8 to a contract authorized by this subsection (d-10) shall
9 be deemed prudently incurred and reasonable in amount, and
10 the electric utility shall be entitled to full cost
11 recovery pursuant to a tariff or tariffs filed with the
12 Commission.

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

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

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

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

25 (f) The Agency shall submit the final procurement plan to
26 the Commission. The Agency shall revise a procurement plan if

1 the Commission determines that it does not meet the standards
2 set forth in Section 16-111.5 of the Public Utilities Act.

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

6 (h) The Agency shall assess fees to each bidder to recover
7 the costs incurred in connection with a competitive
8 procurement process.

9 (i) A renewable energy credit, carbon emission credit,
10 zero emission credit, or carbon mitigation credit can only be
11 used once to comply with a single portfolio or other standard
12 as set forth in subsection (c), subsection (d), or subsection
13 (d-5) of this Section, respectively. A renewable energy
14 credit, carbon emission credit, zero emission credit, or
15 carbon mitigation credit cannot be used to satisfy the
16 requirements of more than one standard. If more than one type
17 of credit is issued for the same megawatt hour of energy, only
18 one credit can be used to satisfy the requirements of a single
19 standard. After such use, the credit must be retired together
20 with any other credits issued for the same megawatt hour of
21 energy.

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

24 (20 ILCS 3855/1-126 new)

25 Sec. 1-126. Transmission systems report. No later than

1 December 1, 2024, the Agency shall create and issue a report
2 that describes how transmission systems limit the ability of
3 electric utilities to meet renewable resource procurement
4 goals described in subsection (c) of Section 1-75, including,
5 but not limited to, constraints on transmission
6 interconnection, the transmission capacity to transmit
7 renewable energy resources into this State, and the
8 opportunities to procure renewable energy resources associated
9 with specific existing or proposed transmission assets. The
10 Agency shall evaluate transmission lines and high voltage
11 direct current transmission facilities that connect one or
12 more independent system operator or regional transmission
13 organizations so that renewable energy resources can be
14 transmitted to electrical load centers. The Agency shall
15 solicit stakeholder feedback and incorporate that feedback in
16 its report.

17 Section 20. The Public Utilities Act is amended by
18 changing Sections 3-105, 16-108, 16-111.5, and 16-111.11 as
19 follows:

20 (220 ILCS 5/3-105) (from Ch. 111 2/3, par. 3-105)

21 Sec. 3-105. Public utility.

22 (a) "Public utility" means and includes, except where
23 otherwise expressly provided in this Section, every
24 corporation, company, limited liability company, association,

1 joint stock company or association, firm, partnership or
2 individual, their lessees, trustees, or receivers appointed by
3 any court whatsoever that owns, controls, operates or manages,
4 within this State, directly or indirectly, for public use, any
5 plant, equipment, or property used or to be used for or in
6 connection with, or now owns or is seeking Commission approval
7 to own or control ~~controls~~ any franchise, license, permit or
8 right to engage in:

9 (1) the production, storage, transmission, sale,
10 delivery or furnishing of heat, cold, power, electricity,
11 water, or light, except when used solely for
12 communications purposes;

13 (2) the disposal of sewerage; or

14 (3) the conveyance of oil or gas by pipe line.

15 (b) "Public utility" does not include, however:

16 (1) public utilities that are owned and operated by
17 any political subdivision, public institution of higher
18 education or municipal corporation of this State, or
19 public utilities that are owned by such political
20 subdivision, public institution of higher education, or
21 municipal corporation and operated by any of its lessees
22 or operating agents;

23 (2) water companies which are purely mutual concerns,
24 having no rates or charges for services, but paying the
25 operating expenses by assessment upon the members of such
26 a company and no other person;

1 (3) electric cooperatives as defined in Section 3-119;

2 (4) the following natural gas cooperatives:

3 (A) residential natural gas cooperatives that are
4 not-for-profit corporations established for the
5 purpose of administering and operating, on a
6 cooperative basis, the furnishing of natural gas to
7 residences for the benefit of their members who are
8 residential consumers of natural gas. For entities
9 qualifying as residential natural gas cooperatives and
10 recognized by the Illinois Commerce Commission as
11 such, the State shall guarantee legally binding
12 contracts entered into by residential natural gas
13 cooperatives for the express purpose of acquiring
14 natural gas supplies for their members. The Illinois
15 Commerce Commission shall establish rules and
16 regulations providing for such guarantees. The total
17 liability of the State in providing all such
18 guarantees shall not at any time exceed \$1,000,000,
19 nor shall the State provide such a guarantee to a
20 residential natural gas cooperative for more than 3
21 consecutive years; and

22 (B) natural gas cooperatives that are
23 not-for-profit corporations operated for the purpose
24 of administering, on a cooperative basis, the
25 furnishing of natural gas for the benefit of their
26 members and that, prior to 90 days after the effective

1 date of this amendatory Act of the 94th General
2 Assembly, either had acquired or had entered into an
3 asset purchase agreement to acquire all or
4 substantially all of the operating assets of a public
5 utility or natural gas cooperative with the intention
6 of operating those assets as a natural gas
7 cooperative;

8 (5) sewage disposal companies which provide sewage
9 disposal services on a mutual basis without establishing
10 rates or charges for services, but paying the operating
11 expenses by assessment upon the members of the company and
12 no others;

13 (6) (blank);

14 (7) cogeneration facilities, small power production
15 facilities, and other qualifying facilities, as defined in
16 the Public Utility Regulatory Policies Act and regulations
17 promulgated thereunder, except to the extent State
18 regulatory jurisdiction and action is required or
19 authorized by federal law, regulations, regulatory
20 decisions or the decisions of federal or State courts of
21 competent jurisdiction;

22 (8) the ownership or operation of a facility that
23 sells compressed natural gas at retail to the public for
24 use only as a motor vehicle fuel and the selling of
25 compressed natural gas at retail to the public for use
26 only as a motor vehicle fuel;

1 (9) alternative retail electric suppliers as defined
2 in Article XVI; and

3 (10) the Illinois Power Agency.

4 (c) An entity that furnishes the service of charging
5 electric vehicles does not and shall not be deemed to sell
6 electricity and is not and shall not be deemed a public utility
7 notwithstanding the basis on which the service is provided or
8 billed. If, however, the entity is otherwise deemed a public
9 utility under this Act, or is otherwise subject to regulation
10 under this Act, then that entity is not exempt from and remains
11 subject to the otherwise applicable provisions of this Act.
12 The installation, maintenance, and repair of an electric
13 vehicle charging station shall comply with the requirements of
14 subsection (a) of Section 16-128 and Section 16-128A of this
15 Act.

16 For purposes of this subsection, the term "electric
17 vehicles" has the meaning ascribed to that term in Section 10
18 of the Electric Vehicle Act.

19 (Source: P.A. 97-1128, eff. 8-28-12.)

20 (220 ILCS 5/16-108)

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

23 (a) An electric utility shall file a delivery services
24 tariff with the Commission at least 210 days prior to the date
25 that it is required to begin offering such services pursuant

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

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

22 (c) The electric utility's tariffs shall define the
23 classes of its customers for purposes of delivery services
24 charges. Delivery services shall be priced and made available
25 to all retail customers electing delivery services in each
26 such class on a nondiscriminatory basis regardless of whether

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

1 geographic area in setting delivery services rates.

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

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

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

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

22 (ii) the cogeneration or self-generation facilities
23 either (A) are sized pursuant to generally accepted
24 engineering standards for the retail customer's electrical
25 load at that premises (taking into account standby or
26 other reliability considerations related to that retail

1 customer's operations at that site) or (B) if the facility
2 is a cogeneration facility located on the retail
3 customer's premises, the retail customer is the thermal
4 host for that facility and the facility has been designed
5 to meet that retail customer's thermal energy requirements
6 resulting in electrical output beyond that retail
7 customer's electrical demand at that premises, comply with
8 the operating and efficiency standards applicable to
9 "qualifying facilities" specified in title 18 Code of
10 Federal Regulations Section 292.205 as in effect on the
11 effective date of this amendatory Act of 1999;

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

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

1 If a generation facility located at a retail customer's
2 premises does not meet the above criteria, an electric utility
3 implementing transition charges shall implement a transition
4 charge until December 31, 2006 for any power and energy taken
5 by such retail customer from such facility as if such power and
6 energy had been delivered by the electric utility. Provided,
7 however, that an industrial retail customer that is taking
8 power from a generation facility that does not meet the above
9 criteria but that is located on such customer's premises will
10 not be subject to a transition charge for the power and energy
11 taken by such retail customer from such generation facility if
12 the facility does not serve any other retail customer and
13 either was installed on behalf of the customer and for its own
14 use prior to January 1, 1997, or is both predominantly fueled
15 by byproducts of such customer's manufacturing process at such
16 premises and sells or offers an average of 300 megawatts or
17 more of electricity produced from such generation facility
18 into the wholesale market. Such charges shall be calculated as
19 provided in Section 16-102, and shall be collected on each
20 kilowatt-hour delivered under a delivery services tariff to a
21 retail customer from the date the customer first takes
22 delivery services until December 31, 2006 except as provided
23 in subsection (h) of this Section. Provided, however, that an
24 electric utility, other than an electric utility providing
25 service to at least 1,000,000 customers in this State on
26 January 1, 1999, shall be entitled to petition for entry of an

1 order by the Commission authorizing the electric utility to
2 implement transition charges for an additional period ending
3 no later than December 31, 2008. The electric utility shall
4 file its petition with supporting evidence no earlier than 16
5 months, and no later than 12 months, prior to December 31,
6 2006. The Commission shall hold a hearing on the electric
7 utility's petition and shall enter its order no later than 8
8 months after the petition is filed. The Commission shall
9 determine whether and to what extent the electric utility
10 shall be authorized to implement transition charges for an
11 additional period. The Commission may authorize the electric
12 utility to implement transition charges for some or all of the
13 additional period, and shall determine the mitigation factors
14 to be used in implementing such transition charges; provided,
15 that the Commission shall not authorize mitigation factors
16 less than 110% of those in effect during the 12 months ended
17 December 31, 2006. In making its determination, the Commission
18 shall consider the following factors: the necessity to
19 implement transition charges for an additional period in order
20 to maintain the financial integrity of the electric utility;
21 the prudence of the electric utility's actions in reducing its
22 costs since the effective date of this amendatory Act of 1997;
23 the ability of the electric utility to provide safe, adequate
24 and reliable service to retail customers in its service area;
25 and the impact on competition of allowing the electric utility
26 to implement transition charges for the additional period.

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

1 utility pursuant to the tariff.

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

24 (i) An electric utility shall be entitled to add to the
25 bills of delivery services customers charges pursuant to
26 Sections 9-221, 9-222 (except as provided in Section 9-222.1),

1 and Section 16-114 of this Act, Section 5-5 of the Electricity
2 Infrastructure Maintenance Fee Law, Section 6-5 of the
3 Renewable Energy, Energy Efficiency, and Coal Resources
4 Development Law of 1997, and Section 13 of the Energy
5 Assistance Act.

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

1 kilowatthours delivered by the electric utility to its
2 delivery services customers. The tariff shall provide for the
3 calculation of the Coal to Solar and Energy Storage Initiative
4 Charge to be in effect for the year beginning January 1, 2023
5 and each year beginning January 1 thereafter, sufficient to
6 collect the electric utility's estimated payment obligations
7 for the delivery year beginning the following June 1 under
8 contracts for purchase of renewable energy credits entered
9 into pursuant to subsection (c-5) of Section 1-75 of the
10 Illinois Power Agency Act and the obligations of the
11 Department of Commerce and Economic Opportunity, or any
12 successor department or agency, which for purposes of this
13 subsection (i-5) shall be referred to as the Department, to
14 make grant payments during such delivery year from the Coal to
15 Solar and Energy Storage Initiative Fund pursuant to grant
16 contracts entered into pursuant to subsection (c-5) of Section
17 1-75 of the Illinois Power Agency Act, and using the electric
18 utility's kilowatthour deliveries to its delivery services
19 customers during the delivery year ended May 31 of the
20 preceding calendar year. On or before November 1 of each year
21 beginning November 1, 2022, the Department shall notify the
22 electric utilities of the amount of the Department's estimated
23 obligations for grant payments during the delivery year
24 beginning the following June 1 pursuant to grant contracts
25 entered into pursuant to subsection (c-5) of Section 1-75 of
26 the Illinois Power Agency Act; and each electric utility shall

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

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

15 (i-10) An electric utility that has entered into a
16 contract to purchase high voltage direct current renewable
17 energy credits as described in item (iii-5) of subparagraph
18 (G) of paragraph (1) of subsection (c) of Section 1-75 of the
19 Illinois Power Agency Act shall be entitled to recover through
20 tariffed charges all costs related to the purchase of high
21 voltage direct current renewable energy credits under the
22 contract. The recoverable costs shall include the costs of
23 procuring the high voltage direct current renewable energy
24 credits, the reasonable costs that the utility incurs as part
25 of the procurement processes, and the cost of implementing and
26 complying with item (iii-5) of subparagraph (G) of paragraph

1 (1) of subsection (c) of Section 1-75 of the Illinois Power
2 Agency Act. The costs associated with the purchase of high
3 voltage direct current renewable energy credits shall be
4 allocated across all retail customers in proportion to the
5 amount of high voltage renewable energy credits the electric
6 utility procures for the customers through a single, uniform
7 cents per kilowatt-hour charge applicable to the retail
8 customers, and pursuant to the terms of a tariff conforming to
9 the requirements of this subsection and filed with and
10 approved by the Commission within 30 days after entering into
11 a contract for high voltage direct current renewable energy
12 credits. The Commission shall approve, or approve with
13 modifications, the tariff no later than 90 days after the
14 tariff is filed.

15 (j) If a retail customer that obtains electric power and
16 energy from cogeneration or self-generation facilities
17 installed for its own use on or before January 1, 1997,
18 subsequently takes service from an alternative retail electric
19 supplier or an electric utility other than the electric
20 utility in whose service area the customer is located for any
21 portion of the customer's electric power and energy
22 requirements formerly obtained from those facilities
23 (including that amount purchased from the utility in lieu of
24 such generation and not as standby power purchases, under a
25 cogeneration displacement tariff in effect as of the effective
26 date of this amendatory Act of 1997), the transition charges

1 otherwise applicable pursuant to subsections (f), (g), or (h)
2 of this Section shall not be applicable in any year to that
3 portion of the customer's electric power and energy
4 requirements formerly obtained from those facilities,
5 provided, that for purposes of this subsection (j), such
6 portion shall not exceed the average number of kilowatt-hours
7 per year obtained from the cogeneration or self-generation
8 facilities during the 3 years prior to the date on which the
9 customer became eligible for delivery services, except as
10 provided in subsection (f) of Section 16-110.

11 (k) The electric utility shall be entitled to recover
12 through tariffed charges all of the costs associated with the
13 purchase of zero emission credits from zero emission
14 facilities to meet the requirements of subsection (d-5) of
15 Section 1-75 of the Illinois Power Agency Act and all of the
16 costs associated with the purchase of carbon mitigation
17 credits from carbon-free energy resources to meet the
18 requirements of subsection (d-10) of Section 1-75 of the
19 Illinois Power Agency Act. Such costs shall include the costs
20 of procuring the zero emission credits and carbon mitigation
21 credits from carbon-free energy resources, as well as the
22 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 subsections
25 (d-5) and (d-10). The costs shall be allocated across all
26 retail customers through a single, uniform cents per

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

1 each such customer's bill.

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

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

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

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

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

13 Nothing in this subsection (k) is intended to affect,
14 limit, or change the right of the electric utility to recover
15 the costs associated with the procurement of renewable energy
16 resources for periods commencing before, on, or after June 1,
17 2017, as otherwise provided in the Illinois Power Agency Act.

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

1 Agency to procure contracts in an amount that does not exceed
2 the funding, and the contracts approved by the Commission
3 shall be executed by the applicable utility or utilities.

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

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

1 kilowatt-hour, which is the average amount paid per
2 kilowatthour for electric service during the year ending
3 December 31, 2015 by Illinois industrial retail customers, as
4 reported to the Edison Electric Institute.

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

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

14 (A) The cents-per-kilowatthour charge identified in
15 the electric utility's tariff placed into effect under
16 Section 8-103 of the Public Utilities Act that, on
17 December 1, 2016, was applicable to those retail customers
18 that have opted out of subsections (a) through (j) of
19 Section 8-103B of this Act under subsection (1) of Section
20 8-103B.

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

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

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

11 (ii) the cents-per-kilowatthour charge to recover
12 the costs incurred by the utility under Section
13 16-107.6 of the Public Utilities Act.

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

17 (3) If a reduction is required by the calculation
18 performed under this subsection (m), then the amount of the
19 reduction shall be multiplied by the number of years reflected
20 in the averages calculated under subparagraph (B) of paragraph
21 (2) of this subsection (m). Such reduction shall be applied to
22 the cents-per-kilowatthour charge that is applicable to those
23 retail customers that have opted out of subsections (a)
24 through (j) of Section 8-103B of this Act under subsection (1)
25 of Section 8-103B beginning with the next delivery year
26 commencing after the date of the calculation required by this

1 subsection (m).

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

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

13 (220 ILCS 5/16-111.5)

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

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

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

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

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

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

- 13 (1) Hourly load analysis. This analysis shall include:
14 (i) multi-year historical analysis of hourly
15 loads;
16 (ii) switching trends and competitive retail
17 market analysis;
18 (iii) known or projected changes to future loads;
19 and
20 (iv) growth forecasts by customer class.
- 21 (2) Analysis of the impact of any demand side and
22 renewable energy initiatives. This analysis shall include:
23 (i) the impact of demand response programs and
24 energy efficiency programs, both current and
25 projected; for small multi-jurisdictional utilities,
26 the impact of demand response and energy efficiency

1 programs approved pursuant to Section 8-408 of this
2 Act, both current and projected; and

3 (ii) supply side needs that are projected to be
4 offset by purchases of renewable energy resources, if
5 any.

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

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

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

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

25 (B) at least satisfy the demand-response
26 requirements of the regional transmission

1 organization market in which the utility's service
2 territory is located, including, but not limited
3 to, any applicable capacity or dispatch
4 requirements;

5 (C) provide for customers' participation in
6 the stream of benefits produced by the
7 demand-response products;

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

13 (E) meet the same credit requirements as apply
14 to suppliers of capacity, in the applicable
15 regional transmission organization market;

16 (iii) monthly forecasted system supply
17 requirements, including expected minimum, maximum, and
18 average values for the planning period;

19 (iv) the proposed mix and selection of standard
20 wholesale products for which contracts will be
21 executed during the next year, separately or in
22 combination, to meet that portion of its load
23 requirements not met through pre-existing contracts,
24 including but not limited to monthly 5 x 16 peak period
25 block energy, monthly off-peak wrap energy, monthly 7
26 x 24 energy, annual 5 x 16 energy, other standardized

1 energy or capacity products designed to provide
2 eligible retail customer benefits from commercially
3 deployed advanced technologies including but not
4 limited to high voltage direct current converter
5 stations, as such term is defined in Section 1-10 of
6 the Illinois Power Agency Act, whether or not such
7 product is currently available in wholesale markets
8 and including bilateral purchases of capacity from a
9 winning bidder under a procurement authorized by item
10 (iii-5) of subparagraph (G) of paragraph (1) of
11 subsection (c) of Section 1-75 of the Illinois Power
12 Agency Act on terms and conditions determined by the
13 Agency, annual off-peak wrap energy, annual 7 x 24
14 energy, monthly capacity, annual capacity, peak load
15 capacity obligations, capacity purchase plan, and
16 ancillary services;

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

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

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

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

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

26 (i) The initial long-term renewable resources

1 procurement plan and all subsequent revisions shall be
2 subject to review and approval by the Commission. For
3 the purposes of this Section, "delivery year" has the
4 same meaning as in Section 1-10 of the Illinois Power
5 Agency Act. For purposes of this Section, "Agency"
6 shall mean the Illinois Power Agency.

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

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

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

1 processes conducted under this Section. The
2 initial long-term renewable resources procurement
3 plan shall:

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

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

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

22 Copies of the initial long-term renewable
23 resources procurement plan and all subsequent
24 revisions shall be posted and made publicly
25 available on the Agency's and Commission's
26 websites, and copies shall also be provided to

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

22 (C) Within 14 days after the filing of the
23 initial long-term renewable resources procurement
24 plan or any subsequent revisions, any person
25 objecting to the plan may file an objection with
26 the Commission. Within 21 days after the filing of

1 the plan, the Commission shall determine whether a
2 hearing is necessary. The Commission shall enter
3 its order confirming or modifying the initial
4 long-term renewable resources procurement plan or
5 any subsequent revisions within 120 days after the
6 filing of the plan by the Illinois Power Agency.

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

24 In approving any long-term renewable resources
25 procurement plan after the effective date of this
26 amendatory Act of the 102nd 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 renewable
14 resources procurement plan without further review and
15 approval by the Commission. Third parties shall not
16 begin implementing any programs or receive any payment
17 under this Section until the Commission has approved
18 the contract or contracts under the process authorized
19 by the Commission in item (D) of subparagraph (ii) of
20 paragraph (5) of this subsection (b) and the third
21 party and the Agency or utility, as applicable, have
22 executed the contract. For those renewable energy
23 credits subject to procurement through a competitive
24 bid process under the plan or under the initial
25 forward procurements for wind and solar resources
26 described in subparagraph (G) of paragraph (1) of

1 subsection (c) of Section 1-75 of the Illinois Power
2 Agency Act, the Agency shall follow the procurement
3 process specified in the provisions relating to
4 electricity procurement in subsections (e) through (i)
5 of this Section.

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

23 (v) For the public interest, safety, and welfare,
24 the Agency and the Commission may adopt rules to carry
25 out the provisions of this Section on an emergency
26 basis immediately following the effective date of this

1 amendatory Act of the 99th General Assembly.

2 (vi) On or before July 1 of each year, the
3 Commission shall hold an informal hearing for the
4 purpose of receiving comments on the prior year's
5 procurement process and any recommendations for
6 change.

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

19 (c) The provisions of this subsection (c) shall not apply
20 to procurements conducted pursuant to subsection (c-5) of
21 Section 1-75 of the Illinois Power Agency Act. However, the
22 Agency may retain a procurement administrator to assist the
23 Agency in planning and carrying out the procurement events and
24 implementing the other requirements specified in such
25 subsection (c-5) of Section 1-75 of the Illinois Power Agency
26 Act, with the costs incurred by the Agency for the procurement

1 administrator to be recovered through fees charged to
2 applicants for selection to sell and deliver renewable energy
3 credits to electric utilities pursuant to subsection (c-5) of
4 Section 1-75 of the Illinois Power Agency Act. The procurement
5 process set forth in Section 1-75 of the Illinois Power Agency
6 Act and subsection (e) of this Section shall be administered
7 by a procurement administrator and monitored by a procurement
8 monitor.

9 (1) The procurement administrator shall:

10 (i) design the final procurement process in
11 accordance with Section 1-75 of the Illinois Power
12 Agency Act and subsection (e) of this Section
13 following Commission approval of the procurement plan;

14 (ii) develop benchmarks in accordance with
15 subsection (e)(3) to be used to evaluate bids; these
16 benchmarks shall be submitted to the Commission for
17 review and approval on a confidential basis prior to
18 the procurement event;

19 (iii) serve as the interface between the electric
20 utility and suppliers;

21 (iv) manage the bidder pre-qualification and
22 registration process;

23 (v) obtain the electric utilities' agreement to
24 the final form of all supply contracts and credit
25 collateral agreements;

26 (vi) administer the request for proposals process;

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

13 (viii) maintain confidentiality of supplier and
14 bidding information in a manner consistent with all
15 applicable laws, rules, regulations, and tariffs;

16 (ix) submit a confidential report to the
17 Commission recommending acceptance or rejection of
18 bids;

19 (x) notify the utility of contract counterparties
20 and contract specifics; and

21 (xi) administer related contingency procurement
22 events.

23 (2) The procurement monitor, who shall be retained by
24 the Commission, shall:

25 (i) monitor interactions among the procurement
26 administrator, suppliers, and utility;

1 (ii) monitor and report to the Commission on the
2 progress of the procurement process;

3 (iii) provide an independent confidential report
4 to the Commission regarding the results of the
5 procurement event;

6 (iv) assess compliance with the procurement plans
7 approved by the Commission for each utility that on
8 December 31, 2005 provided electric service to at
9 least 100,000 customers in Illinois and for each small
10 multi-jurisdictional utility that on December 31, 2005
11 served less than 100,000 customers in Illinois;

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

15 (vi) provide expert advice to the Commission and
16 consult with the procurement administrator regarding
17 issues related to procurement process design, rules,
18 protocols, and policy-related matters; and

19 (vii) consult with the procurement administrator
20 regarding the development and use of benchmark
21 criteria, standard form contracts, credit policies,
22 and bid documents.

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

25 (1) Beginning in 2008, each Illinois utility procuring
26 power pursuant to this Section shall annually provide a

1 range of load forecasts to the Illinois Power Agency by
2 July 15 of each year, or such other date as may be required
3 by the Commission or Agency. The load forecasts shall
4 cover the 5-year procurement planning period for the next
5 procurement plan and shall include hourly data
6 representing a high-load, low-load, and expected-load
7 scenario for the load of those retail customers included
8 in the plan's electric supply service requirements. The
9 utility shall provide supporting data and assumptions for
10 each of the scenarios.

11 (2) Beginning in 2008, the Illinois Power Agency shall
12 prepare a procurement plan by August 15th of each year, or
13 such other date as may be required by the Commission. The
14 procurement plan shall identify the portfolio of
15 demand-response and power and energy products to be
16 procured. Cost-effective demand-response measures shall be
17 procured as set forth in item (iii) of subsection (b) of
18 this Section. Copies of the procurement plan shall be
19 posted and made publicly available on the Agency's and
20 Commission's websites, and copies shall also be provided
21 to each affected electric utility. An affected utility
22 shall have 30 days following the date of posting to
23 provide comment to the Agency on the procurement plan.
24 Other interested entities also may comment on the
25 procurement plan. All comments submitted to the Agency
26 shall be specific, supported by data or other detailed

1 analyses, and, if objecting to all or a portion of the
2 procurement plan, accompanied by specific alternative
3 wording or proposals. All comments shall be posted on the
4 Agency's and Commission's websites. During this 30-day
5 comment period, the Agency shall hold at least one public
6 hearing within each utility's service area for the purpose
7 of receiving public comment on the procurement plan.
8 Within 14 days following the end of the 30-day review
9 period, the Agency shall revise the procurement plan as
10 necessary based on the comments received and file the
11 procurement plan with the Commission and post the
12 procurement plan on the websites.

13 (3) Within 5 days after the filing of the procurement
14 plan, any person objecting to the procurement plan shall
15 file an objection with the Commission. Within 10 days
16 after the filing, the Commission shall determine whether a
17 hearing is necessary. The Commission shall enter its order
18 confirming or modifying the procurement plan within 90
19 days after the filing of the procurement plan by the
20 Illinois Power Agency.

21 (4) The Commission shall approve the procurement plan,
22 including expressly the forecast used in the procurement
23 plan, if the Commission determines that it will ensure
24 adequate, reliable, affordable, efficient, and
25 environmentally sustainable electric service at the lowest
26 total cost over time, taking into account any benefits of

1 price stability.

2 (4.5) The Commission shall review the Agency's
3 recommendations for the selection of applicants to enter
4 into long-term contracts for the sale and delivery of
5 renewable energy credits from new renewable energy
6 facilities to be constructed at or adjacent to the sites
7 of coal-fueled electric generating facilities in this
8 State in accordance with the provisions of subsection
9 (c-5) of Section 1-75 of the Illinois Power Agency Act,
10 and shall approve the Agency's recommendations if the
11 Commission determines that the applicants recommended by
12 the Agency for selection, the proposed new renewable
13 energy facilities to be constructed, the amounts of
14 renewable energy credits to be delivered pursuant to the
15 contracts, and the other terms of the contracts, are
16 consistent with the requirements of subsection (c-5) of
17 Section 1-75 of the Illinois Power Agency Act.

18 (e) The procurement process shall include each of the
19 following components:

20 (1) Solicitation, pre-qualification, and registration
21 of bidders. The procurement administrator shall
22 disseminate information to potential bidders to promote a
23 procurement event, notify potential bidders that the
24 procurement administrator may enter into a post-bid price
25 negotiation with bidders that meet the applicable
26 benchmarks, provide supply requirements, and otherwise

1 explain the competitive procurement process. In addition
2 to such other publication as the procurement administrator
3 determines is appropriate, this information shall be
4 posted on the Illinois Power Agency's and the Commission's
5 websites. The procurement administrator shall also
6 administer the prequalification process, including
7 evaluation of credit worthiness, compliance with
8 procurement rules, and agreement to the standard form
9 contract developed pursuant to paragraph (2) of this
10 subsection (e). The procurement administrator shall then
11 identify and register bidders to participate in the
12 procurement event.

13 (2) Standard contract forms and credit terms and
14 instruments. The procurement administrator, in
15 consultation with the utilities, the Commission, and other
16 interested parties and subject to Commission oversight,
17 shall develop and provide standard contract forms for the
18 supplier contracts that meet generally accepted industry
19 practices. Standard credit terms and instruments that meet
20 generally accepted industry practices shall be similarly
21 developed. The procurement administrator shall make
22 available to the Commission all written comments it
23 receives on the contract forms, credit terms, or
24 instruments. If the procurement administrator cannot reach
25 agreement with the applicable electric utility as to the
26 contract terms and conditions, the procurement

1 administrator must notify the Commission of any disputed
2 terms and the Commission shall resolve the dispute. The
3 terms of the contracts shall not be subject to negotiation
4 by winning bidders, and the bidders must agree to the
5 terms of the contract in advance so that winning bids are
6 selected solely on the basis of price.

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

25 (4) Request for proposals competitive procurement
26 process. The procurement administrator shall design and

1 issue a request for proposals to supply electricity in
2 accordance with each utility's procurement plan, as
3 approved by the Commission. The request for proposals
4 shall set forth a procedure for sealed, binding commitment
5 bidding with pay-as-bid settlement, and provision for
6 selection of bids on the basis of price.

7 (5) A plan for implementing contingencies in the event
8 of supplier default or failure of the procurement process
9 to fully meet the expected load requirement due to
10 insufficient supplier participation, Commission rejection
11 of results, or any other cause.

12 (i) Event of supplier default: In the event of
13 supplier default, the utility shall review the
14 contract of the defaulting supplier to determine if
15 the amount of supply is 200 megawatts or greater, and
16 if there are more than 60 days remaining of the
17 contract term. If both of these conditions are met,
18 and the default results in termination of the
19 contract, the utility shall immediately notify the
20 Illinois Power Agency that a request for proposals
21 must be issued to procure replacement power, and the
22 procurement administrator shall run an additional
23 procurement event. If the contracted supply of the
24 defaulting supplier is less than 200 megawatts or
25 there are less than 60 days remaining of the contract
26 term, the utility shall procure power and energy from

1 the applicable regional transmission organization
2 market, including ancillary services, capacity, and
3 day-ahead or real time energy, or both, for the
4 duration of the contract term to replace the
5 contracted supply; provided, however, that if a needed
6 product is not available through the regional
7 transmission organization market it shall be purchased
8 from the wholesale market.

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

1 request for proposals process shall be implemented by
2 the procurement administrator within 90 days after the
3 determination that the procurement process has failed
4 to fully meet the expected load requirement.

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

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

21 (f) Within 2 business days after opening the sealed bids,
22 the procurement administrator shall submit a confidential
23 report to the Commission. The report shall contain the results
24 of the bidding for each of the products along with the
25 procurement administrator's recommendation for the acceptance
26 and rejection of bids based on the price benchmark criteria

1 and other factors observed in the process. The procurement
2 monitor also shall submit a confidential report to the
3 Commission within 2 business days after opening the sealed
4 bids. The report shall contain the procurement monitor's
5 assessment of bidder behavior in the process as well as an
6 assessment of the procurement administrator's compliance with
7 the procurement process and rules. The Commission shall review
8 the confidential reports submitted by the procurement
9 administrator and procurement monitor, and shall accept or
10 reject the recommendations of the procurement administrator
11 within 2 business days after receipt of the reports.

12 (g) Within 3 business days after the Commission decision
13 approving the results of a procurement event, the utility
14 shall enter into binding contractual arrangements with the
15 winning suppliers using the standard form contracts; except
16 that the utility shall not be required either directly or
17 indirectly to execute the contracts if a tariff that is
18 consistent with subsection (l) of this Section has not been
19 approved and placed into effect for that utility.

20 (h) For the procurement of standard wholesale products,
21 the names of the successful bidders and the load weighted
22 average of the winning bid prices for each contract type and
23 for each contract term shall be made available to the public at
24 the time of Commission approval of a procurement event. For
25 procurements conducted to meet the requirements of subsection
26 (b) of Section 1-56 or subsection (c) of Section 1-75 of the

1 Illinois Power Agency Act governed by the provisions of this
2 Section, the address and nameplate capacity of the new
3 renewable energy generating facility proposed by a winning
4 bidder shall also be made available to the public at the time
5 of Commission approval of a procurement event, along with the
6 business address and contact information for any winning
7 bidder. An estimate or approximation of the nameplate capacity
8 of the new renewable energy generating facility may be
9 disclosed if necessary to protect the confidentiality of
10 individual bid prices.

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

24 (i) Within 2 business days after a Commission decision
25 approving the results of a procurement event or such other
26 date as may be required by the Commission from time to time,

1 the utility shall file for informational purposes with the
2 Commission its actual or estimated retail supply charges, as
3 applicable, by customer supply group reflecting the costs
4 associated with the procurement and computed in accordance
5 with the tariffs filed pursuant to subsection (l) of this
6 Section and approved by the Commission.

7 (j) Within 60 days following August 28, 2007 (the
8 effective date of Public Act 95-481), each electric utility
9 that on December 31, 2005 provided electric service to at
10 least 100,000 customers in Illinois shall prepare and file
11 with the Commission an initial procurement plan, which shall
12 conform in all material respects to the requirements of the
13 procurement plan set forth in subsection (b); provided,
14 however, that the Illinois Power Agency Act shall not apply to
15 the initial procurement plan prepared pursuant to this
16 subsection. The initial procurement plan shall identify the
17 portfolio of power and energy products to be procured and
18 delivered for the period June 2008 through May 2009, and shall
19 identify the proposed procurement administrator, who shall
20 have the same experience and expertise as is required of a
21 procurement administrator hired pursuant to Section 1-75 of
22 the Illinois Power Agency Act. Copies of the procurement plan
23 shall be posted and made publicly available on the
24 Commission's website. The initial procurement plan may include
25 contracts for renewable resources that extend beyond May 2009.

26 (i) Within 14 days following filing of the initial

1 procurement plan, any person may file a detailed objection
2 with the Commission contesting the procurement plan
3 submitted by the electric utility. All objections to the
4 electric utility's plan shall be specific, supported by
5 data or other detailed analyses. The electric utility may
6 file a response to any objections to its procurement plan
7 within 7 days after the date objections are due to be
8 filed. Within 7 days after the date the utility's response
9 is due, the Commission shall determine whether a hearing
10 is necessary. If it determines that a hearing is
11 necessary, it shall require the hearing to be completed
12 and issue an order on the procurement plan within 60 days
13 after the filing of the procurement plan by the electric
14 utility.

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

24 (k) (Blank).

25 (k-5) (Blank).

26 (l) An electric utility shall recover its costs incurred

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

1 procurement of renewable energy credits pursuant to subsection
2 (c-5) of Section 1-75 of the Illinois Power Agency Act,
3 including any fees assessed by the Illinois Power Agency,
4 costs associated with load balancing, and contingency plan
5 costs. The electric utility shall also recover its full costs
6 of procuring electric supply for which it contracted before
7 the effective date of this Section in conjunction with the
8 provision of full requirements service under fixed-price
9 bundled service tariffs subsequent to December 31, 2006. All
10 such costs shall be deemed to have been prudently incurred.
11 The pass-through tariffs that are filed and approved pursuant
12 to this Section shall not be subject to review under, or in any
13 way limited by, Section 16-111(i) of this Act. All of the costs
14 incurred by the electric utility associated with the purchase
15 of zero emission credits in accordance with subsection (d-5)
16 of Section 1-75 of the Illinois Power Agency Act, all costs
17 incurred by the electric utility associated with the purchase
18 of carbon mitigation credits in accordance with subsection
19 (d-10) of Section 1-75 of the Illinois Power Agency Act, and,
20 beginning June 1, 2017, all of the costs incurred by the
21 electric utility associated with the purchase of renewable
22 energy resources in accordance with Sections 1-56 and 1-75 of
23 the Illinois Power Agency Act, and all of the costs incurred by
24 the electric utility in purchasing renewable energy credits in
25 accordance with subsection (c-5) of Section 1-75 of the
26 Illinois Power Agency Act, shall be recovered through the

1 electric utility's tariffed charges applicable to all of its
2 retail customers, as specified in subsection (k) or subsection
3 (i-5), as applicable, of Section 16-108 of this Act, and shall
4 not be recovered through the electric utility's tariffed
5 charges for electric power and energy supply to its eligible
6 retail customers.

7 (m) The Commission has the authority to adopt rules to
8 carry out the provisions of this Section. For the public
9 interest, safety, and welfare, the Commission also has
10 authority to adopt rules to carry out the provisions of this
11 Section on an emergency basis immediately following August 28,
12 2007 (the effective date of Public Act 95-481).

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

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

25 (p) An electric utility subject to this Section may
26 propose to invest, lease, own, or operate an electric

1 generation facility as part of its procurement plan, provided
2 the utility demonstrates that such facility is the least-cost
3 option to provide electric service to those retail customers
4 included in the plan's electric supply service requirements.
5 If the facility is shown to be the least-cost option and is
6 included in a procurement plan prepared in accordance with
7 Section 1-75 of the Illinois Power Agency Act and this
8 Section, then the electric utility shall make a filing
9 pursuant to Section 8-406 of this Act, and may request of the
10 Commission any statutory relief required thereunder. If the
11 Commission grants all of the necessary approvals for the
12 proposed facility, such supply shall thereafter be considered
13 as a pre-existing contract under subsection (b) of this
14 Section. The Commission shall in any order approving a
15 proposal under this subsection specify how the utility will
16 recover the prudently incurred costs of investing in, leasing,
17 owning, or operating such generation facility through just and
18 reasonable rates charged to those retail customers included in
19 the plan's electric supply service requirements. Cost recovery
20 for facilities included in the utility's procurement plan
21 pursuant to this subsection shall not be subject to review
22 under or in any way limited by the provisions of Section
23 16-111(i) of this Act. Nothing in this Section is intended to
24 prohibit a utility from filing for a fuel adjustment clause as
25 is otherwise permitted under Section 9-220 of this Act.

26 (q) If the Illinois Power Agency filed with the

1 Commission, under Section 16-111.5 of this Act, its proposed
2 procurement plan for the period commencing June 1, 2017, and
3 the Commission has not yet entered its final order approving
4 the plan on or before the effective date of this amendatory Act
5 of the 99th General Assembly, then the Illinois Power Agency
6 shall file a notice of withdrawal with the Commission, after
7 the effective date of this amendatory Act of the 99th General
8 Assembly, to withdraw the proposed procurement of renewable
9 energy resources to be approved under the plan, other than the
10 procurement of renewable energy credits from distributed
11 renewable energy generation devices using funds previously
12 collected from electric utilities' retail customers that take
13 service pursuant to electric utilities' hourly pricing tariff
14 or tariffs and, for an electric utility that serves less than
15 100,000 retail customers in the State, other than the
16 procurement of renewable energy credits from distributed
17 renewable energy generation devices. Upon receipt of the
18 notice, the Commission shall enter an order that approves the
19 withdrawal of the proposed procurement of renewable energy
20 resources from the plan. The initially proposed procurement of
21 renewable energy resources shall not be approved or be the
22 subject of any further hearing, investigation, proceeding, or
23 order of any kind.

24 This amendatory Act of the 99th General Assembly preempts
25 and supersedes any order entered by the Commission that
26 approved the Illinois Power Agency's procurement plan for the

1 period commencing June 1, 2017, to the extent it is
2 inconsistent with the provisions of this amendatory Act of the
3 99th General Assembly. To the extent any previously entered
4 order approved the procurement of renewable energy resources,
5 the portion of that order approving the procurement shall be
6 void, other than the procurement of renewable energy credits
7 from distributed renewable energy generation devices using
8 funds previously collected from electric utilities' retail
9 customers that take service under electric utilities' hourly
10 pricing tariff or tariffs and, for an electric utility that
11 serves less than 100,000 retail customers in the State, other
12 than the procurement of renewable energy credits for
13 distributed renewable energy generation devices.

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

15 (220 ILCS 5/16-111.11)

16 Sec. 16-111.11. Supplier diversity reporting for
17 non-utilities.

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

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

24 (2) entities that received a contract to provide more
25 than 10,000 renewable energy credits approved by the

1 Commission in a given year pursuant to subsection (e) of
2 Section 16-111.5;

3 (3) alternative retail electric suppliers that have
4 yearly sales in the State of 1,000,000,000 kilowatt hours
5 or more, and alternative gas suppliers as defined in
6 Section 19-105 that have yearly sales in the State of
7 1,000,000 dekatherms or more;

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

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

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

21 (a-5) An entity that receives a contract to provide high
22 voltage direct current renewable energy credits and the
23 associated high voltage direct current transmission facility
24 is exempt from the obligations of this Section.

25 (b) An annual report filed pursuant to this Section shall
26 be filed on an electronic form as designed by the Commission by

1 June 1, 2023 and every June 1 thereafter, in a searchable Adobe
2 PDF format, on all procurement goals and actual spending for
3 women-owned businesses, minority-owned businesses,
4 veteran-owned businesses, and small business enterprises in
5 the previous calendar year related to the performance of
6 obligations in the State of the contracts of licenses listed
7 in subsection (a). These goals shall be expressed as a
8 percentage of the total work performed by the entity
9 submitting the report. The actual spending for all women-owned
10 businesses, minority-owned businesses, veteran-owned
11 businesses, and small business enterprises shall also be
12 expressed as a percentage of the total work performed by the
13 entity submitting the report. Notwithstanding any provision of
14 law to the contrary, any entity with obligations related to
15 equity eligible actions pursuant to the Illinois Power Agency
16 Act may express such goals and spending in those terms.

17 Each participating entity in its annual report shall
18 include the following information related to the entity's
19 operations in the State related to the certificates or
20 activities listed in subsection (a):

21 (1) an explanation of the plan for the next year to
22 increase participation;

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

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

26 (4) an outline of the plan to alert and encourage

1 potential vendors in that area to seek business from the
2 entity;

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

7 (6) a list of the certifications the entity
8 recognizes;

9 (7) the point of contact for any potential vendor who
10 wants to do business with the entity and explain the
11 process for a vendor to enroll with the company as a
12 minority-owned, women-owned, or veteran-owned company; and

13 (8) any particular success stories to encourage other
14 entities to emulate best practices.

15 (c) Each annual report shall include as much
16 State-specific data as possible. If the submitting entity does
17 not submit State-specific data, then the entity shall include
18 any national data it does have and explain why it could not
19 submit State-specific data and how it intends to do so in
20 future reports.

21 (d) Each annual report shall include the rules,
22 regulations, and definitions used for the procurement goals in
23 the entity's annual report.

24 (e) Each annual report filed or submitted under this
25 Section shall be submitted with the Commission. The Commission
26 shall not be required or authorized to compel production of

1 any report under this Section. The Commission shall hold an
2 annual workshop open to the public in 2024 and every year
3 thereafter on the state of supplier diversity to
4 collaboratively seek solutions to structural impediments to
5 achieving stated goals, including testimony from participating
6 entities as well as subject matter experts and advocates in a
7 non-antagonistic manner. The Commission shall invite all
8 entities submitting a report pursuant to this Section. The
9 Commission shall publish a database on its website of the
10 point of contact for each participating entity for supplier
11 diversity, along with a list of certifications each company
12 recognizes from the information submitted in each annual
13 report. The Commission shall publish each annual report on its
14 website and shall maintain each annual report for at least 5
15 years.

16 (Source: P.A. 102-1031, eff. 5-27-22.)

17 Section 25. The Prevailing Wage Act is amended by changing
18 Section 2 as follows:

19 (820 ILCS 130/2)

20 Sec. 2. This Act applies to the wages of laborers,
21 mechanics and other workers employed in any public works, as
22 hereinafter defined, by any public body and to anyone under
23 contracts for public works. This includes any maintenance,
24 repair, assembly, or disassembly work performed on equipment

1 whether owned, leased, or rented.

2 As used in this Act, unless the context indicates
3 otherwise:

4 "Public works" means all fixed works constructed or
5 demolished by any public body, or paid for wholly or in part
6 out of public funds. "Public works" as defined herein includes
7 all projects financed in whole or in part with bonds, grants,
8 loans, or other funds made available by or through the State or
9 any of its political subdivisions, including but not limited
10 to: bonds issued under the Industrial Project Revenue Bond Act
11 (Article 11, Division 74 of the Illinois Municipal Code), the
12 Industrial Building Revenue Bond Act, the Illinois Finance
13 Authority Act, the Illinois Sports Facilities Authority Act,
14 or the Build Illinois Bond Act; loans or other funds made
15 available pursuant to the Build Illinois Act; loans or other
16 funds made available pursuant to the Riverfront Development
17 Fund under Section 10-15 of the River Edge Redevelopment Zone
18 Act; or funds from the Fund for Illinois' Future under Section
19 6z-47 of the State Finance Act, funds for school construction
20 under Section 5 of the General Obligation Bond Act, funds
21 authorized under Section 3 of the School Construction Bond
22 Act, funds for school infrastructure under Section 6z-45 of
23 the State Finance Act, and funds for transportation purposes
24 under Section 4 of the General Obligation Bond Act. "Public
25 works" also includes (i) all projects financed in whole or in
26 part with funds from the Environmental Protection Agency under

1 the Illinois Renewable Fuels Development Program Act for which
2 there is no project labor agreement; (ii) all work performed
3 pursuant to a public private agreement under the Public
4 Private Agreements for the Illiana Expressway Act or the
5 Public-Private Agreements for the South Suburban Airport Act;
6 (iii) all projects undertaken under a public-private agreement
7 under the Public-Private Partnerships for Transportation Act
8 or the Department of Natural Resources World Shooting and
9 Recreational Complex Act; and (iv) all transportation
10 facilities undertaken under a design-build contract or a
11 Construction Manager/General Contractor contract under the
12 Innovations for Transportation Infrastructure Act. "Public
13 works" also includes all projects at leased facility property
14 used for airport purposes under Section 35 of the Local
15 Government Facility Lease Act. "Public works" also includes
16 the construction of a new wind power facility by a business
17 designated as a High Impact Business under Section
18 5.5(a)(3)(E), ~~and~~ the construction of a new utility-scale
19 solar power facility by a business designated as a High Impact
20 Business under Section 5.5(a)(3)(E-5), and the construction of
21 a new high voltage direct current converter station by a
22 business designated as a High Impact Business under Section
23 5.5(a)(3)(I) of the Illinois Enterprise Zone Act. "Public
24 works" also includes electric vehicle charging station
25 projects financed pursuant to the Electric Vehicle Act and
26 renewable energy projects required to pay the prevailing wage

1 pursuant to the Illinois Power Agency Act. "Public works" also
2 includes power washing projects by a public body or paid for
3 wholly or in part out of public funds in which steam or
4 pressurized water, with or without added abrasives or
5 chemicals, is used to remove paint or other coatings, oils or
6 grease, corrosion, or debris from a surface or to prepare a
7 surface for a coating. "Public works" does not include work
8 done directly by any public utility company, whether or not
9 done under public supervision or direction, or paid for wholly
10 or in part out of public funds. "Public works" also includes
11 construction projects performed by a third party contracted by
12 any public utility, as described in subsection (a) of Section
13 2.1, in public rights-of-way, as defined in Section 21-201 of
14 the Public Utilities Act, whether or not done under public
15 supervision or direction, or paid for wholly or in part out of
16 public funds. "Public works" also includes construction
17 projects that exceed 15 aggregate miles of new fiber optic
18 cable, performed by a third party contracted by any public
19 utility, as described in subsection (b) of Section 2.1, in
20 public rights-of-way, as defined in Section 21-201 of the
21 Public Utilities Act, whether or not done under public
22 supervision or direction, or paid for wholly or in part out of
23 public funds. "Public works" also includes any corrective
24 action performed pursuant to Title XVI of the Environmental
25 Protection Act for which payment from the Underground Storage
26 Tank Fund is requested. "Public works" also includes all

1 construction projects involving fixtures or permanent
2 attachments affixed to light poles that are owned by a public
3 body, including street light poles, traffic light poles, and
4 other lighting fixtures, whether or not done under public
5 supervision or direction, or paid for wholly or in part out of
6 public funds, unless the project is performed by employees
7 employed directly by the public body. "Public works" also
8 includes work performed subject to the Mechanical Insulation
9 Energy and Safety Assessment Act. "Public works" also includes
10 the removal, hauling, and transportation of biosolids, lime
11 sludge, and lime residue from a water treatment plant or
12 facility and the disposal of biosolids, lime sludge, and lime
13 residue removed from a water treatment plant or facility at a
14 landfill. "Public works" does not include projects undertaken
15 by the owner at an owner-occupied single-family residence or
16 at an owner-occupied unit of a multi-family residence. "Public
17 works" does not include work performed for soil and water
18 conservation purposes on agricultural lands, whether or not
19 done under public supervision or paid for wholly or in part out
20 of public funds, done directly by an owner or person who has
21 legal control of those lands.

22 "Construction" means all work on public works involving
23 laborers, workers or mechanics. This includes any maintenance,
24 repair, assembly, or disassembly work performed on equipment
25 whether owned, leased, or rented.

26 "Locality" means the county where the physical work upon

1 public works is performed, except (1) that if there is not
2 available in the county a sufficient number of competent
3 skilled laborers, workers and mechanics to construct the
4 public works efficiently and properly, "locality" includes any
5 other county nearest the one in which the work or construction
6 is to be performed and from which such persons may be obtained
7 in sufficient numbers to perform the work and (2) that, with
8 respect to contracts for highway work with the Department of
9 Transportation of this State, "locality" may at the discretion
10 of the Secretary of the Department of Transportation be
11 construed to include two or more adjacent counties from which
12 workers may be accessible for work on such construction.

13 "Public body" means the State or any officer, board or
14 commission of the State or any political subdivision or
15 department thereof, or any institution supported in whole or
16 in part by public funds, and includes every county, city,
17 town, village, township, school district, irrigation, utility,
18 reclamation improvement or other district and every other
19 political subdivision, district or municipality of the state
20 whether such political subdivision, municipality or district
21 operates under a special charter or not.

22 "Labor organization" means an organization that is the
23 exclusive representative of an employer's employees recognized
24 or certified pursuant to the National Labor Relations Act.

25 The terms "general prevailing rate of hourly wages",
26 "general prevailing rate of wages" or "prevailing rate of

1 wages" when used in this Act mean the hourly cash wages plus
2 annualized fringe benefits for training and apprenticeship
3 programs approved by the U.S. Department of Labor, Bureau of
4 Apprenticeship and Training, health and welfare, insurance,
5 vacations and pensions paid generally, in the locality in
6 which the work is being performed, to employees engaged in
7 work of a similar character on public works.

8 (Source: P.A. 102-9, eff. 1-1-22; 102-444, eff. 8-20-21;
9 102-673, eff. 11-30-21; 102-813, eff. 5-13-22; 102-1094, eff.
10 6-15-22; 103-8, eff. 6-7-23; 103-327, eff. 1-1-24; 103-346,
11 eff. 1-1-24; 103-359, eff. 7-28-23; 103-447, eff. 8-4-23;
12 revised 12-15-23.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 20 ILCS 655/5.5 from Ch. 67 1/2, par. 609.1

4 20 ILCS 3855/1-5

5 20 ILCS 3855/1-10

6 20 ILCS 3855/1-75

7 20 ILCS 3855/1-126 new

8 220 ILCS 5/3-105 from Ch. 111 2/3, par. 3-105

9 220 ILCS 5/16-108

10 220 ILCS 5/16-111.5

11 220 ILCS 5/16-111.11

12 820 ILCS 130/2