



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB1816

Introduced 2/5/2025, by Sen. Bill Cunningham

SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-75

Amends the Illinois Power Agency Act. In provisions concerning the renewable portfolio standard for the Planning and Procurement Bureau, provides that, to ensure the successful development of new renewable energy projects supported through competitive procurements, for certain procurements, the Agency shall propose a process for post-award renegotiation of contract terms through its long-term renewable resources plan. Provides that such proposal shall allow for bilateral negotiation between the Agency and a winning bidder regarding contract terms, other than strike price and terms that impact strike price, that are not required under the Act. Provides that post-award renegotiation of competitively bid renewable energy credit prices shall be allowed only in cases where it is necessary to ensure the successful development of the underlying new renewable energy project based on circumstances that were unforeseeable at the time of the procurement event. Provides that, if, following the processes in the long-term renewable resources plan, the Agency and the winning bidder reach an agreement on amended terms or the winning bidder is entitled to a change in price, then, upon petition by the winning bidder or current seller, the Commission shall issue an order directing the utility counterparty to execute a form amendment drafted by the Agency with the revised terms or the new strike price. Provides that the Agency shall provide the amendment to the utility within 15 business days after the Commission's order and the utility buyer shall execute the amendment no more than 7 calendar days after delivery by the Agency. Provides that the Agency shall develop the form amendment following comments by interested parties. Effective immediately.

LRB104 10387 AAS 20462 b

1 AN ACT concerning State government.

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

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

6 (20 ILCS 3855/1-75)

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

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

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

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

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

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

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

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

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

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

1 organizations;

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

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

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

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

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

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

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

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

25 (E) expertise in credit and contract protocols;

26 (F) adequate resources to perform and fulfill the

1 required functions and responsibilities; and

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

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

20 (A) failure to satisfy qualification criteria;

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

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

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

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

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

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

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

25 (b) The experts or expert consulting firms retained by the
26 Agency shall, as appropriate, prepare procurement plans, and

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

13 (c) Renewable portfolio standard.

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

1 than 120 days after the effective date of this amendatory
2 Act of the 103rd General Assembly, the Agency shall
3 release for comment a revision to the long-term renewable
4 resources procurement plan, updating elements of the most
5 recently approved plan as needed to comply with this
6 amendatory Act of the 103rd General Assembly, and any
7 long-term renewable resources procurement plan update
8 published by the Agency but not yet approved by the
9 Illinois Commerce Commission shall be withdrawn. The
10 long-term renewable resources procurement plans shall be
11 subject to review and approval by the Commission under
12 Section 16-111.5 of the Public Utilities Act.

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

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

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

25 For the delivery year beginning June 1, 2018, the
26 procurement plan shall attempt to include, subject to the

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

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

25 For each delivery year, the Agency shall first
26 recognize each utility's obligations for that delivery

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

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

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

1 least 47% from utility-scale solar projects; at least
2 3% from brownfield site photovoltaic projects that are
3 not community renewable generation projects.

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

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

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

3 (iii) For purposes of this Section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 nameplate capacity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 construction activities associated with a
2 selected project.

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (vi) All procurements under this subparagraph (G),
9 including the procurement of renewable energy credits
10 from hydropower facilities, shall comply with the
11 geographic requirements in subparagraph (I) of this
12 paragraph (1) and shall follow the procurement
13 processes and procedures described in this Section and
14 Section 16-111.5 of the Public Utilities Act to the
15 extent practicable, and these processes and procedures
16 may be expedited to accommodate the schedule
17 established by this subparagraph (G). To ensure the
18 successful development of new renewable energy
19 projects supported through competitive procurements,
20 for procurements conducted under items (i) through
21 (iii) and (v) of this subparagraph (G) or any other
22 procurement of new utility-scale wind or utility-scale
23 solar projects, the Agency shall propose a process for
24 post-award renegotiation of contract terms through its
25 long-term renewable resources plan described in
26 subparagraph (A) of this paragraph (1). Such proposal

1 shall allow for bilateral negotiation between the
2 Agency and a winning bidder regarding contract terms,
3 other than strike price and terms that impact strike
4 price, that are not required under this Act.
5 Post-award renegotiation of competitively bid
6 renewable energy credit prices shall be allowed only
7 in cases where it is necessary to ensure the
8 successful development of the underlying new renewable
9 energy project based on circumstances that were
10 unforeseeable at the time of the procurement event.
11 If, following the processes in the long-term renewable
12 resources plan, the Agency and the winning bidder
13 reach an agreement on amended terms or the winning
14 bidder is entitled to a change in price, then, upon
15 petition by the winning bidder or current seller, the
16 Commission shall issue an order directing the utility
17 counterparty to execute a form amendment drafted by
18 the Agency with the revised terms or the new strike
19 price. The Agency shall provide the amendment to the
20 utility within 15 business days after the Commission's
21 order and the utility buyer shall execute the
22 amendment no more than 7 calendar days after delivery
23 by the Agency. The Agency shall develop the form
24 amendment following comments by interested parties.

25 (vii) On and after the effective date of this
26 amendatory Act of the 103rd General Assembly, for all

1 procurements of renewable energy credits from
2 hydropower facilities, the Agency shall establish
3 contract terms designed to optimize existing
4 hydropower facilities through modernization or
5 retooling and establish new hydropower facilities at
6 existing dams. Procurements made under this item (vii)
7 shall prioritize projects located in designated
8 environmental justice communities, as defined in
9 subsection (b) of Section 1-56 of this Act, or in
10 projects located in units of local government with
11 median incomes that do not exceed 82% of the median
12 income of the State.

13 (H) The procurement of renewable energy resources for
14 a given delivery year shall be reduced as described in
15 this subparagraph (H) if an alternative retail electric
16 supplier meets the requirements described in this
17 subparagraph (H).

18 (i) Within 45 days after June 1, 2017 (the
19 effective date of Public Act 99-906), an alternative
20 retail electric supplier or its successor shall submit
21 an informational filing to the Illinois Commerce
22 Commission certifying that, as of December 31, 2015,
23 the alternative retail electric supplier owned one or
24 more electric generating facilities that generates
25 renewable energy resources as defined in Section 1-10
26 of this Act, provided that such facilities are not

1 powered by wind or photovoltaics, and the facilities
2 generate one renewable energy credit for each
3 megawatthour of energy produced from the facility.

4 The informational filing shall identify each
5 facility that was eligible to satisfy the alternative
6 retail electric supplier's obligations under Section
7 16-115D of the Public Utilities Act as described in
8 this item (i).

9 (ii) For a given delivery year, the alternative
10 retail electric supplier may elect to supply its
11 retail customers with renewable energy credits from
12 the facility or facilities described in item (i) of
13 this subparagraph (H) that continue to be owned by the
14 alternative retail electric supplier.

15 (iii) The alternative retail electric supplier
16 shall notify the Agency and the applicable utility, no
17 later than February 28 of the year preceding the
18 applicable delivery year or 15 days after June 1, 2017
19 (the effective date of Public Act 99-906), whichever
20 is later, of its election under item (ii) of this
21 subparagraph (H) to supply renewable energy credits to
22 retail customers of the utility. Such election shall
23 identify the amount of renewable energy credits to be
24 supplied by the alternative retail electric supplier
25 to the utility's retail customers and the source of
26 the renewable energy credits identified in the

1 informational filing as described in item (i) of this
2 subparagraph (H), subject to the following
3 limitations:

4 For the delivery year beginning June 1, 2018,
5 the maximum amount of renewable energy credits to
6 be supplied by an alternative retail electric
7 supplier under this subparagraph (H) shall be 68%
8 multiplied by 25% multiplied by 14.5% multiplied
9 by the amount of metered electricity
10 (megawatt-hours) delivered by the alternative
11 retail electric supplier to Illinois retail
12 customers during the delivery year ending May 31,
13 2016.

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

1 apply to each delivery year.

2 For each delivery year, the total amount of
3 renewable energy credits supplied by all alternative
4 retail electric suppliers under this subparagraph (H)
5 shall not exceed 9% of the Illinois target renewable
6 energy credit quantity. The Illinois target renewable
7 energy credit quantity for the delivery year beginning
8 June 1, 2018 is 14.5% multiplied by the total amount of
9 metered electricity (megawatt-hours) delivered in the
10 delivery year immediately preceding that delivery
11 year, provided that the 14.5% shall increase by 1.5%
12 each delivery year thereafter to 25% by the delivery
13 year beginning June 1, 2025, and thereafter the 25%
14 value shall apply to each delivery year.

15 If the requirements set forth in items (i) through
16 (iii) of this subparagraph (H) are met, the charges
17 that would otherwise be applicable to the retail
18 customers of the alternative retail electric supplier
19 under paragraph (6) of this subsection (c) for the
20 applicable delivery year shall be reduced by the ratio
21 of the quantity of renewable energy credits supplied
22 by the alternative retail electric supplier compared
23 to that supplier's target renewable energy credit
24 quantity. The supplier's target renewable energy
25 credit quantity for the delivery year beginning June
26 1, 2018 is 14.5% multiplied by the total amount of

1 metered electricity (megawatt-hours) delivered by the
2 alternative retail supplier in that delivery year,
3 provided that the 14.5% shall increase by 1.5% each
4 delivery year thereafter to 25% by the delivery year
5 beginning June 1, 2025, and thereafter the 25% value
6 shall apply to each delivery year.

7 On or before April 1 of each year, the Agency shall
8 annually publish a report on its website that
9 identifies the aggregate amount of renewable energy
10 credits supplied by alternative retail electric
11 suppliers under this subparagraph (H).

12 (I) The Agency shall design its long-term renewable
13 energy procurement plan to maximize the State's interest
14 in the health, safety, and welfare of its residents,
15 including but not limited to minimizing sulfur dioxide,
16 nitrogen oxide, particulate matter and other pollution
17 that adversely affects public health in this State,
18 increasing fuel and resource diversity in this State,
19 enhancing the reliability and resiliency of the
20 electricity distribution system in this State, meeting
21 goals to limit carbon dioxide emissions under federal or
22 State law, and contributing to a cleaner and healthier
23 environment for the citizens of this State. In order to
24 further these legislative purposes, renewable energy
25 credits shall be eligible to be counted toward the
26 renewable energy requirements of this subsection (c) if

1 they are generated from facilities located in this State.
2 The Agency may qualify renewable energy credits from
3 facilities located in states adjacent to Illinois or
4 renewable energy credits associated with the electricity
5 generated by a utility-scale wind energy facility or
6 utility-scale photovoltaic facility and transmitted by a
7 qualifying direct current project described in subsection
8 (b-5) of Section 8-406 of the Public Utilities Act to a
9 delivery point on the electric transmission grid located
10 in this State or a state adjacent to Illinois, if the
11 generator demonstrates and the Agency determines that the
12 operation of such facility or facilities will help promote
13 the State's interest in the health, safety, and welfare of
14 its residents based on the public interest criteria
15 described above. For the purposes of this Section,
16 renewable resources that are delivered via a high voltage
17 direct current converter station located in Illinois shall
18 be deemed generated in Illinois at the time and location
19 the energy is converted to alternating current by the high
20 voltage direct current converter station if the high
21 voltage direct current transmission line: (i) after the
22 effective date of this amendatory Act of the 102nd General
23 Assembly, was constructed with a project labor agreement;
24 (ii) is capable of transmitting electricity at 525kv;
25 (iii) has an Illinois converter station located and
26 interconnected in the region of the PJM Interconnection,

1 LLC; (iv) does not operate as a public utility; and (v) if
2 the high voltage direct current transmission line was
3 energized after June 1, 2023. To ensure that the public
4 interest criteria are applied to the procurement and given
5 full effect, the Agency's long-term procurement plan shall
6 describe in detail how each public interest factor shall
7 be considered and weighted for facilities located in
8 states adjacent to Illinois.

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

1 the utility and all of these amounts shall be used for the
2 procurement of additional renewable energy credits from
3 new wind or new photovoltaic resources as defined in this
4 subsection (c). The long-term plan shall provide that
5 these renewable energy credits shall be procured in the
6 next procurement event.

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

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

1 development, financing, or construction of projects.
2 The Agency shall periodically review the assumptions
3 in these costs and may adjust prices, in compliance
4 with subparagraph (M) of this paragraph (1).

5 (R) In its long-term renewable resources procurement
6 plan, the Agency shall establish a self-direct renewable
7 portfolio standard compliance program for eligible
8 self-direct customers that purchase renewable energy
9 credits from utility-scale wind and solar projects through
10 long-term agreements for purchase of renewable energy
11 credits as described in this Section. Such long-term
12 agreements may include the purchase of energy or other
13 products on a physical or financial basis and may involve
14 an alternative retail electric supplier as defined in
15 Section 16-102 of the Public Utilities Act. This program
16 shall take effect in the delivery year commencing June 1,
17 2023.

18 (1) For the purposes of this subparagraph:

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

1 more than 10,000 kilowatts.

2 "Retail customer" has the meaning set forth in
3 Section 16-102 of the Public Utilities Act and
4 multiple retail customer accounts under the same
5 corporate parent may aggregate their account demands
6 to meet the 10,000 kilowatt threshold. The criteria
7 for determining whether this subparagraph is
8 applicable to a retail customer shall be based on the
9 12 consecutive billing periods prior to the start of
10 the year in which the application is filed.

11 (2) For renewable energy credits to count toward
12 the self-direct renewable portfolio standard
13 compliance program, they must:

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

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

1 (iii) be procured through long-term contracts
2 with term lengths of at least 10 years either
3 directly with the renewable energy generating
4 facility or through a bundled power purchase
5 agreement, a virtual power purchase agreement, an
6 agreement between the renewable generating
7 facility, an alternative retail electric supplier,
8 and the customer, or such other structure as is
9 permissible under this subparagraph (R);

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

15 (v) be retired by or on behalf of the large
16 energy customer;

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

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

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

1 contracting utilities where the eligible self-direct
2 customer is located. The self-direct customer shall
3 file an annual compliance report with the Agency
4 pursuant to terms established by the Agency through
5 its long-term renewable resources procurement plan to
6 be eligible for participation in this program.
7 Customers must provide the Agency with their most
8 recent electricity billing statements or other
9 information deemed necessary by the Agency to
10 demonstrate they are an eligible self-direct customer.

11 (4) The Commission shall approve a reduction in
12 the volumetric charges collected pursuant to Section
13 16-108 of the Public Utilities Act for approved
14 eligible self-direct customers equivalent to the
15 anticipated cost of renewable energy credit deliveries
16 under contracts for new utility-scale wind and new
17 utility-scale solar entered for each delivery year
18 after the large energy customer begins retiring
19 eligible new utility scale renewable energy credits
20 for self-compliance. The self-direct credit amount
21 shall be determined annually and is equal to the
22 estimated portion of the cost authorized by
23 subparagraph (E) of paragraph (1) of this subsection
24 (c) that supported the annual procurement of
25 utility-scale renewable energy credits in the prior
26 delivery year using a methodology described in the

1 long-term renewable resources procurement plan,
2 expressed on a per kilowatthour basis, and does not
3 include (i) costs associated with any contracts
4 entered into before the delivery year in which the
5 customer files the initial compliance report to be
6 eligible for participation in the self-direct program,
7 and (ii) costs associated with procuring renewable
8 energy credits through existing and future contracts
9 through the Adjustable Block Program, subsection (c-5)
10 of this Section 1-75, and the Solar for All Program.
11 The Agency shall assist the Commission in determining
12 the current and future costs. The Agency must
13 determine the self-direct credit amount for new and
14 existing eligible self-direct customers and submit
15 this to the Commission in an annual compliance filing.
16 The Commission must approve the self-direct credit
17 amount by June 1, 2023 and June 1 of each delivery year
18 thereafter.

19 (5) Customers described in this subparagraph (R)
20 shall apply, on a form developed by the Agency, to the
21 Agency to be designated as a self-direct eligible
22 customer. Once the Agency determines that a
23 self-direct customer is eligible for participation in
24 the program, the self-direct customer will remain
25 eligible until the end of the term of the contract.
26 Thereafter, application may be made not less than 12

1 months before the filing date of the long-term
2 renewable resources procurement plan described in this
3 Act. At a minimum, such application shall contain the
4 following:

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

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

16 (iii) certification that the contract or
17 contracts for new renewable energy resources are
18 long-term contracts with term lengths of at least
19 10 years, including supporting documentation;

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

24 (v) proof that the contract is sufficient to
25 produce renewable energy credits to be equivalent
26 in volume to at least 40% of the large energy

1 customer's usage from the previous delivery year,
2 measured to the nearest megawatt-hour; and

3 (vi) certification that the customer intends
4 to maintain the contract for the duration of the
5 length of the contract.

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

20 (2) (Blank).

21 (3) (Blank).

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

24 (5) Beginning with the 2010 delivery year and ending
25 June 1, 2017, an electric utility subject to this
26 subsection (c) shall apply the lesser of the maximum

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

23 (6) The electric utility shall be entitled to recover
24 all of its costs associated with the procurement of
25 renewable energy credits under plans approved under this
26 Section and Section 16-111.5 of the Public Utilities Act.

1 These costs shall include associated reasonable expenses
2 for implementing the procurement programs, including, but
3 not limited to, the costs of administering and evaluating
4 the Adjustable Block program, through an automatic
5 adjustment clause tariff in accordance with subsection (k)
6 of Section 16-108 of the Public Utilities Act.

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

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

25 (c-5) Procurement of renewable energy credits from new
26 renewable energy facilities installed at or adjacent to the

1 sites of electric generating facilities that burn or burned
2 coal as their primary fuel source.

3 (1) In addition to the procurement of renewable energy
4 credits pursuant to long-term renewable resources
5 procurement plans in accordance with subsection (c) of
6 this Section and Section 16-111.5 of the Public Utilities
7 Act, the Agency shall conduct procurement events in
8 accordance with this subsection (c-5) for the procurement
9 by electric utilities that served more than 300,000 retail
10 customers in this State as of January 1, 2019 of renewable
11 energy credits from new renewable energy facilities to be
12 installed at or adjacent to the sites of electric
13 generating facilities that, as of January 1, 2016, burned
14 coal as their primary fuel source and meet the other
15 criteria specified in this subsection (c-5). For purposes
16 of this subsection (c-5), "new renewable energy facility"
17 means a new utility-scale solar project as defined in this
18 Section 1-75. The renewable energy credits procured
19 pursuant to this subsection (c-5) may be included or
20 counted for purposes of compliance with the amounts of
21 renewable energy credits required to be procured pursuant
22 to subsection (c) of this Section to the extent that there
23 are otherwise shortfalls in compliance with such
24 requirements. The procurement of renewable energy credits
25 by electric utilities pursuant to this subsection (c-5)
26 shall be funded solely by revenues collected from the Coal

1 to Solar and Energy Storage Initiative Charge provided for
2 in this subsection (c-5) and subsection (i-5) of Section
3 16-108 of the Public Utilities Act, shall not be funded by
4 revenues collected through any of the other funding
5 mechanisms provided for in subsection (c) of this Section,
6 and shall not be subject to the limitation imposed by
7 subsection (c) on charges to retail customers for costs to
8 procure renewable energy resources pursuant to subsection
9 (c), and shall not be subject to any other requirements or
10 limitations of subsection (c).

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

1 facilities located anywhere in this State that meet the
2 eligibility criteria specified in this subsection (c-5).
3 The Agency shall establish and announce a time period,
4 which shall begin no later than 30 days prior to the
5 scheduled date for the procurement event, during which
6 applicants may submit applications to be selected as
7 suppliers of renewable energy credits pursuant to this
8 subsection (c-5). The eligibility criteria for selection
9 as a supplier of renewable energy credits pursuant to this
10 subsection (c-5) shall be as follows:

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

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

1 at one time owned, in whole or in part, by a public
2 utility as defined in Section 3-105 of the Public
3 Utilities Act.

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

25 (D) The applicant agrees that the new renewable
26 energy facility and the energy storage facility will

1 be constructed or installed by a qualified entity or
2 entities in compliance with the requirements of
3 subsection (g) of Section 16-128A of the Public
4 Utilities Act and any rules adopted thereunder.

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

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

1 facility and the new energy storage facility, and
2 that, on or before the commercial operation date of
3 the new renewable energy facility, the applicant shall
4 file a report with the Agency certifying that the
5 requirements of this subparagraph (F) have been met.

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

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

1 credits as provided for in item (v) of subparagraph
2 (G) of paragraph (1) of subsection (c) of Section 1-75
3 of this Act. The applicable duration of each contract
4 shall be 20 years, unless the applicant is physically
5 interconnected to the PJM Interconnection, LLC
6 transmission grid and had a generating capacity of at
7 least 1,200 megawatts as of January 1, 2021, in which
8 case the applicable duration of the contract shall be
9 15 years.

10 (I) The applicant's application is certified by an
11 officer of the applicant and by an officer of the
12 applicant's ultimate parent company, if any.

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

23 (4) The Agency shall assess fees to each applicant to
24 recover the Agency's costs incurred in receiving and
25 evaluating applications, conducting the procurement event,
26 developing contracts for sale, delivery and purchase of

1 renewable energy credits, and monitoring the
2 administration of such contracts, as provided for in this
3 subsection (c-5), including fees paid to a procurement
4 administrator retained by the Agency for one or more of
5 these purposes.

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

1 procured as specified in this paragraph (5) shall not be
2 reduced based on renewable energy credits procured in the
3 self-direct renewable energy credit compliance program
4 established pursuant to subparagraph (R) of paragraph (1)
5 of subsection (c) of Section 1-75.

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

24 (7) The Agency shall submit its proposed selection of
25 applicants, new renewable energy facilities to be
26 constructed, and renewable energy credit amounts for each

1 procurement event to the Commission for approval. The
2 Commission shall, within 2 business days after receipt of
3 the Agency's proposed selections, approve the proposed
4 selections if it determines that the applicants and the
5 new renewable energy facilities to be constructed meet the
6 selection criteria set forth in this subsection (c-5) and
7 that the Agency seeks approval for contracts of applicable
8 durations aggregating to no more than the maximum amount
9 of renewable energy credits per year authorized by this
10 subsection (c-5) for the procurement event, at a price of
11 \$30 per renewable energy credit.

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

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

1 contract at least 30 days before the date of the first
2 procurement event.

3 (9) Coal to Solar and Energy Storage Initiative
4 Charge.

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

1 this subsection (c-5) as the Department, pursuant to
2 paragraph (10) of this subsection (c-5). The electric
3 utility's tariff shall provide for the billing and
4 collection of the Coal to Solar and Energy Storage
5 Initiative Charge on each kilowatthour of electricity
6 delivered to its delivery services customers within
7 its service territory and shall provide for an annual
8 reconciliation of revenues collected with actual
9 costs, in accordance with subsection (i-5) of Section
10 16-108 of the Public Utilities Act.

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

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

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

1 collected by electric utilities through imposition of
2 the Coal to Solar and Energy Storage Initiative Charge
3 required by this subsection (c-5). The Coal to Solar
4 and Energy Storage Initiative Fund shall be
5 administered by the Department to provide grants to
6 support the installation and operation of energy
7 storage facilities at the sites of qualifying electric
8 generating facilities meeting the criteria specified
9 in this paragraph (10).

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

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

1 region in Illinois and the sites of up to 2 qualifying
2 electric generating facilities located in the PJM
3 Interconnection, LLC region in Illinois that meet the
4 criteria set forth in this subparagraph (C). The
5 criteria for receipt of a grant pursuant to this
6 subparagraph (C) are as follows:

7 (1) the electric generating facility at the
8 site has, or had prior to retirement, an electric
9 generating capacity of at least 150 megawatts;

10 (2) the electric generating facility burns (or
11 burned prior to retirement) coal as its primary
12 source of fuel;

13 (3) if the electric generating facility is
14 retired, it was retired subsequent to January 1,
15 2016;

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

24 (5) the electric generating facility located
25 at the site was at one time owned, in whole or in
26 part, by a public utility as defined in Section

1 3-105 of the Public Utilities Act;

2 (6) the electric generating facility at the
3 site is not owned by (i) an electric cooperative
4 as defined in Section 3-119 of the Public
5 Utilities Act, or (ii) an entity described in
6 subsection (b)(1) of Section 3-105 of the Public
7 Utilities Act, or an association or consortium of
8 or an entity owned by entities described in items
9 (i) or (ii);

10 (7) the proposed energy storage facility at
11 the site will have energy storage capacity of at
12 least 37 megawatts;

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

22 (9) the owner agrees that the new energy
23 storage facility will be constructed or installed
24 by a qualified entity or entities consistent with
25 the requirements of subsection (g) of Section
26 16-128A of the Public Utilities Act and any rules

1 adopted under that Section;

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

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

1 requirements of this subparagraph (11) have been
2 met; and

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

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

26 (D) Grants of funding for energy storage

1 facilities pursuant to subparagraph (C) of this
2 paragraph (10), from the Coal to Solar and Energy
3 Storage Initiative Fund, shall be memorialized in
4 grant contracts between the Department and the
5 recipient. The grant contracts shall specify the date
6 or dates in each year on which the annual grant
7 payments shall be paid.

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

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

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

1 days following the Commission's approval of the
2 applicant to contract to supply renewable energy
3 credits or within 60 days following execution of a
4 grant contract with the Department, as applicable,
5 submit to the Commission a diversity, equity, and
6 inclusion plan setting forth the applicant's or
7 owner's numeric goals for the diversity composition of
8 its supplier entities for the new renewable energy
9 facility or new energy storage facility, as
10 applicable, which shall be referred to for purposes of
11 this paragraph (11) as the project, and the
12 applicant's or owner's action plan and schedule for
13 achieving those goals.

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

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

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

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

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

1 of the new renewable energy resource or new energy
2 storage facility, but the applicant or owner shall
3 thereafter continue to be subject to applicable
4 reporting requirements of Section 5-117 of the Public
5 Utilities Act.

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

26 (1) Minimum equity standards. The Agency shall create

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

1 purposes of this subsection (c-10). The proposed schedule
2 of annual increases shall be revisited and updated on an
3 annual basis. Revisions shall be developed with
4 stakeholder input, including from equity eligible persons,
5 equity eligible contractors, clean energy industry
6 representatives, and community-based organizations that
7 work with such persons and contractors.

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

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

24 (C) At the end of each delivery year, each entity
25 participating and completing work in that delivery
26 year in a procurement program of subsection (c) shall

1 submit a report to the Agency that demonstrates how it
2 achieved compliance with the minimum equity standards
3 percentage for that delivery year.

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

19 (E) The Agency shall pursue efficiencies achieved
20 by combining with other approved vendor or designee
21 reporting.

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

26 (3) Equity accountability system within competitive

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

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

26 (A) The current status and number of equity

1 eligible contractors listed in the Energy Workforce
2 Equity Database designed in subsection (c-25),
3 including the number of equity eligible contractors
4 with current certifications as issued by the Agency.

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

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

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

23 (E) An application for waiver of the minimum
24 equity standards of this subsection, which the Agency
25 shall have the discretion to grant in rare
26 circumstances. The Agency may grant such a waiver

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

26 (5) The Agency shall collect information about work on

1 projects or portfolios of projects subject to these
2 minimum equity standards to ensure compliance with this
3 subsection (c-10). Reporting in furtherance of this
4 requirement may be combined with other annual reporting
5 requirements. Such reporting shall include proof of
6 certification of each equity eligible contractor or equity
7 eligible person during the applicable time period.

8 (6) The Agency shall keep confidential all information
9 and communication that provides private or personal
10 information.

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

1 investment eligible persons and equity investment eligible
2 community; and (C) such other modifications necessary to
3 advance the goals of this amendatory Act of the 102nd
4 General Assembly effectively. Such revised criteria may
5 also establish distinct equity accountability systems for
6 different types of procurements or different regions of
7 the State if the Agency finds that doing so will further
8 the purposes of such programs. Revisions shall be
9 developed with stakeholder input, including from equity
10 eligible persons, equity eligible contractors, and
11 community-based organizations that work with such persons
12 and contractors.

13 (c-15) Racial discrimination elimination powers and
14 process.

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

22 (2) Racial disparity and discrimination review
23 process.

24 (A) Within one year after awarding contracts using
25 the equity actions processes established in this
26 Section, the Agency shall publish a report evaluating

1 the effectiveness of the equity actions point criteria
2 of this Section in increasing participation of equity
3 eligible persons and equity eligible contractors. The
4 report shall disaggregate participating workers and
5 contractors by race and ethnicity. The report shall be
6 forwarded to the Governor, the General Assembly, and
7 the Illinois Commerce Commission and be made available
8 to the public.

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

1 Agency, Department of Commerce and Economic
2 Opportunity, Department of Labor, Department of
3 Corrections, and other appropriate agencies shall take
4 appropriate remedial actions, including race-conscious
5 remedial actions as consistent with State and federal
6 law, to effectively remedy this discrimination. Such
7 remedies may include modification of the equity
8 accountability system as described in subsection
9 (c-10).

10 (c-20) Program data collection.

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

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

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

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

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

14 (C) any other information the Agency determines is
15 necessary for the purpose of achieving the purpose of
16 this subsection.

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

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

25 (c-25) Energy Workforce Equity Database.

26 (1) The Agency, in consultation with the Department of

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

10 (A) publicly accessible;

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

12 (C) organized by company specialty or field;

13 (D) region-specific; and

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

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

23 (A) a map of environmental justice and equity
24 investment eligible communities;

25 (B) job postings and recruiting opportunities;

26 (C) a means by which recruiting clean energy

1 companies can find and interact with current or former
2 participants of clean energy workforce training
3 programs;

4 (D) information on workforce training service
5 providers and training opportunities available to
6 prospective workers;

7 (E) renewable energy company diversity reporting;

8 (F) a list of equity eligible contractors with
9 their contact information, types of work performed,
10 and locations worked in;

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

16 (H) information about the Jobs and Environmental
17 Justice Grant Program, the Clean Energy Jobs and
18 Justice Fund, and other sources of capital.

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

1 Accelerator Program.

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

17 (d) Clean coal portfolio standard.

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

1 to the limits specified in paragraph (2) of this
2 subsection (d). It is the goal of the State that by January
3 1, 2025, 25% of the electricity used in the State shall be
4 generated by cost-effective clean coal facilities. For
5 purposes of this subsection (d), "cost-effective" means
6 that the expenditures pursuant to such sourcing agreements
7 do not cause the limit stated in paragraph (2) of this
8 subsection (d) to be exceeded and do not exceed cost-based
9 benchmarks, which shall be developed to assess all
10 expenditures pursuant to such sourcing agreements covering
11 electricity generated by clean coal facilities, other than
12 the initial clean coal facility, by the procurement
13 administrator, in consultation with the Commission staff,
14 Agency staff, and the procurement monitor and shall be
15 subject to Commission review and approval.

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

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

26 A utility shall be deemed to have complied with the

1 clean coal portfolio standard specified in this subsection
2 (d) if the utility enters into a sourcing agreement as
3 required by this subsection (d).

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

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

26 (A) in 2010, no more than 0.5% of the amount paid

1 per kilowatthour by those customers during the year
2 ending May 31, 2009;

3 (B) in 2011, the greater of an additional 0.5% of
4 the amount paid per kilowatthour by those customers
5 during the year ending May 31, 2010 or 1% of the amount
6 paid per kilowatthour by those customers during the
7 year ending May 31, 2009;

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

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

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

1 during the year ending May 31, 2009 or (ii) the
2 incremental amount per kilowatthour paid for these
3 resources in 2013. These requirements may be altered
4 only as provided by statute.

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

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

1 requirements of paragraph (4) of this subsection (d) and
2 shall be executed within 90 days after any such approval
3 by the General Assembly. The Agency and the Commission
4 shall have authority to inspect all books and records
5 associated with the initial clean coal facility during the
6 term of such a sourcing agreement. A utility's sourcing
7 agreement for electricity produced by the initial clean
8 coal facility shall include:

9 (A) a formula contractual price (the "contract
10 price") approved pursuant to paragraph (4) of this
11 subsection (d), which shall:

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

22 (ii) provide that all miscellaneous net
23 revenue, including but not limited to net revenue
24 from the sale of emission allowances, if any,
25 substitute natural gas, if any, grants or other
26 support provided by the State of Illinois or the

1 United States Government, firm transmission
2 rights, if any, by-products produced by the
3 facility, energy or capacity derived from the
4 facility and not covered by a sourcing agreement
5 pursuant to paragraph (3) of this subsection (d)
6 or item (5) of subsection (d) of Section 16-115 of
7 the Public Utilities Act, whether generated from
8 the synthesis gas derived from coal, from SNG, or
9 from natural gas, shall be credited against the
10 revenue requirement for this initial clean coal
11 facility;

12 (B) power purchase provisions, which shall:

13 (i) provide that the utility party to such
14 sourcing agreement shall pay the contract price
15 for electricity delivered under such sourcing
16 agreement;

17 (ii) require delivery of electricity to the
18 regional transmission organization market of the
19 utility that is party to such sourcing agreement;

20 (iii) require the utility party to such
21 sourcing agreement to buy from the initial clean
22 coal facility in each hour an amount of energy
23 equal to all clean coal energy made available from
24 the initial clean coal facility during such hour
25 times a fraction, the numerator of which is such
26 utility's retail market sales of electricity

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

15 (iv) be considered pre-existing contracts in
16 such utility's procurement plans for eligible
17 retail customers;

18 (C) contract for differences provisions, which
19 shall:

20 (i) require the utility party to such sourcing
21 agreement to contract with the initial clean coal
22 facility in each hour with respect to an amount of
23 energy equal to all clean coal energy made
24 available from the initial clean coal facility
25 during such hour times a fraction, the numerator
26 of which is such utility's retail market sales of

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

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

1 utility's supply obligations are financially
2 settled on an hourly basis) (the "reference
3 price") on the day preceding the day on which the
4 electricity is delivered to the initial clean coal
5 facility busbar, multiplied by (2) the quantity of
6 electricity determined pursuant to the preceding
7 clause (i); and

8 (iii) not require the utility to take physical
9 delivery of the electricity produced by the
10 facility;

11 (D) general provisions, which shall:

12 (i) specify a term of no more than 30 years,
13 commencing on the commercial operation date of the
14 facility;

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

23 (iii) provide that all costs associated with
24 the initial clean coal facility will be
25 periodically reported to the Federal Energy
26 Regulatory Commission and to purchasers in

1 accordance with applicable laws governing
2 cost-based wholesale power contracts;

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

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

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

1 expert retained by the owner of the initial clean
2 coal facility, with the advance written approval
3 of the Attorney General. The Commission may, in
4 the course of the review specified in item (vii),
5 reduce the allowable return on equity for the
6 facility if the facility willfully fails to comply
7 with the carbon capture and sequestration
8 requirements set forth in this item (v);

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

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

1 whether any adjustments have been proposed, and
2 shall be completed within 9 months;

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

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

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

23 (xi) append documentation showing that the
24 formula rate and contract, insofar as they relate
25 to the power purchase provisions, have been
26 approved by the Federal Energy Regulatory

1 Commission pursuant to Section 205 of the Federal
2 Power Act;

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

10 (xiii) conform with customary lender
11 requirements in power purchase agreements used as
12 the basis for financing non-utility generators.

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

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

1 of subsection (d) of this Section, and shall provide
2 the Commission and the Agency access to the work
3 papers, relied upon documents, and any other backup
4 documentation related to the facility cost report.

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

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

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

24 (A) The facility cost report shall be prepared by
25 duly licensed engineering and construction firms
26 detailing the estimated capital costs payable to one

1 or more contractors or suppliers for the engineering,
2 procurement and construction of the components
3 comprising the initial clean coal facility and the
4 estimated costs of operation and maintenance of the
5 facility. The facility cost report shall include:

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

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

24 The quoted construction costs shall be expressed
25 in nominal dollars as of the date that the quote is
26 prepared and shall include capitalized financing costs

1 during construction, taxes, insurance, and other
2 owner's costs, and an assumed escalation in materials
3 and labor beyond the date as of which the construction
4 cost quote is expressed.

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

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

1 operator or operators.

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

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

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

22 (5) Re-powering and retrofitting coal-fired power
23 plants previously owned by Illinois utilities to qualify
24 as clean coal facilities. During the 2009 procurement
25 planning process and thereafter, the Agency and the
26 Commission shall consider sourcing agreements covering

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

25 (6) Costs incurred under this subsection (d) or
26 pursuant to a contract entered into under this subsection

1 (d) shall be deemed prudently incurred and reasonable in
2 amount and the electric utility shall be entitled to full
3 cost recovery pursuant to the tariffs filed with the
4 Commission.

5 (d-5) Zero emission standard.

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

1 emission credits to be procured under the contracts shall
2 be all of the zero emission credits generated by the zero
3 emission facility in each delivery year; however, if the
4 zero emission facility is owned by more than one entity,
5 then the quantity of zero emission credits to be procured
6 under the contracts shall be the amount of zero emission
7 credits that are generated from the portion of the zero
8 emission facility that is owned by the winning supplier.

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

13 The procurement process shall be subject to the
14 following provisions:

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

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

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

1 determine the capability of each facility;

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

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

24 The information described in item (iii) of this
25 subparagraph (A) may be submitted on a confidential
26 basis and shall be treated and maintained by the

1 Agency, the procurement administrator, and the
2 Commission as confidential and proprietary and exempt
3 from disclosure under subparagraphs (a) and (g) of
4 paragraph (1) of Section 7 of the Freedom of
5 Information Act. The Office of Attorney General shall
6 have access to, and maintain the confidentiality of,
7 such information pursuant to Section 6.5 of the
8 Attorney General Act.

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

26 (i) Social Cost of Carbon: The Social Cost of

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

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

1 (iii) Market price index: The market price
2 index for a delivery year shall be the sum of
3 projected energy prices and projected capacity
4 prices determined as follows:

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

20 (bb) Projected capacity prices:

21 (I) For the delivery years commencing
22 June 1, 2017, June 1, 2018, and June 1,
23 2019, the projected capacity price shall
24 be equal to the sum of (1) 50% multiplied
25 by the Base Residual Auction, or its
26 successor, price for the rest of the RTO

1 zone group as determined by PJM
2 Interconnection LLC, divided by 24 hours
3 per day and, (2) 50% multiplied by the
4 resource auction price determined in the
5 resource auction administered by the
6 Midcontinent Independent System Operator,
7 Inc., in which the largest percentage of
8 load cleared for Local Resource Zone 4,
9 divided by 24 hours per day, and where
10 such price is determined by the
11 Midcontinent Independent System Operator,
12 Inc.

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

1 by 24 hours per day, and where such price
2 is determined by the Midcontinent
3 Independent System Operator, Inc.

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

5 "Rest of the RTO" and "ComEd Zone" shall have
6 the meaning ascribed to them by PJM
7 Interconnection, LLC.

8 "RTO" means regional transmission
9 organization.

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

1 held, including the preservation of zero emission
2 facilities. The plan shall also describe in detail how
3 each public interest factor shall be considered and
4 weighted in the bid selection process to ensure that
5 the public interest criteria are applied to the
6 procurement and given full effect.

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

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

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

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

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

23 (ii) specifically address how the selection of
24 winning bids takes into account the incremental
25 environmental benefits resulting from the
26 procurement, including any existing environmental

1 benefits that are preserved by the procurements
2 held under Public Act 99-906 and would have ceased
3 to exist if the procurements had not been held,
4 such as the preservation of zero emission
5 facilities;

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

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

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

24 (I) the price, or if there is more
25 than one price, the average of the prices,
26 paid for renewable energy credits from new

1 utility-scale wind projects in the
2 procurement events specified in item (i)
3 of subparagraph (G) of paragraph (1) of
4 subsection (c) of this Section; and

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

17 Each utility shall enter into binding contractual
18 arrangements with the winning suppliers.

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

1 approval processes required by this subsection (d-5)
2 shall be conducted in conjunction with the procurement
3 and plan approval processes required by subsection (c)
4 of this Section and Section 16-111.5 of the Public
5 Utilities Act, to the extent practicable.
6 Notwithstanding whether a procurement event is
7 conducted under Section 16-111.5 of the Public
8 Utilities Act, the Agency shall immediately initiate a
9 procurement process on June 1, 2017 (the effective
10 date of Public Act 99-906).

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

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

25 (i) A zero emission facility shall be excused
26 from its performance under the contract for any

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

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

1 generating unit, or the privilege or occupation of
2 such generation, ownership, or leasehold of
3 generation units by a zero emission facility.
4 However, the provisions of this item (ii) do not
5 apply to any generally applicable tax, special
6 assessment or fee, or requirements imposed by
7 federal law.

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

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

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

1 with the provisions of this subsection (d-5).

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

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

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

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

26 (3) Six years after the execution of a contract under

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

24 For purposes of this Section, the Average ZEC Payment
25 shall be calculated by multiplying the quantity of zero
26 emission credits delivered under the contract times the

1 average contract price. The average contract price shall
2 be determined by subtracting the amount calculated under
3 subparagraph (B) of this paragraph (3) from the amount
4 calculated under subparagraph (A) of this paragraph (3),
5 as follows:

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

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

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

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

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

23 (6) Electric utilities shall be entitled to recover
24 all of the costs associated with the procurement of zero
25 emission credits through an automatic adjustment clause
26 tariff in accordance with subsection (k) and (m) of

1 Section 16-108 of the Public Utilities Act, and the
2 contracts executed under this subsection (d-5) shall
3 provide that the utilities' payment obligations under such
4 contracts shall be reduced if an adjustment is required
5 under subsection (m) of Section 16-108 of the Public
6 Utilities Act.

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

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

11 (1) The General Assembly finds:

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

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

25 (C) The General Assembly finds that nuclear power
26 generation is necessary for the State's transition to 100%

1 clean energy, and ensuring continued operation of nuclear
2 plants advances environmental and public health interests
3 through providing carbon-free electricity while reducing
4 the air pollution profile of the Illinois energy
5 generation fleet.

6 (D) The clean energy attributes of nuclear generation
7 facilities support the State in its efforts to achieve
8 100% clean energy.

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

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

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

1 (H) The procurement of carbon mitigation credits
2 representing the environmental benefits of carbon-free
3 generation will further the State's efforts at achieving
4 100% clean energy and decarbonizing the electricity sector
5 in a safe, reliable, and affordable manner. Further, the
6 procurement of carbon emission credits will enhance the
7 health and welfare of Illinois residents through decreased
8 reliance on more highly polluting generation.

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

15 (2) As used in this subsection:

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

1 operations, provided that "necessary" means, for purposes of
2 this definition, that the costs could reasonably be avoided
3 only by ceasing operations of the carbon-free energy resource.

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

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

11 (3) Procurement.

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

24 (B) Each carbon-free energy resource that intends to
25 participate in a procurement shall be required to submit
26 to the Agency the following information for the resource

1 on or before the date established by the Agency:

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

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

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

17 (iv) financial need and the risk of loss of the
18 environmental benefits of such resource, which shall
19 include the following information:

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

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

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

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

26 (C) The Agency shall solicit bids for the contracts

1 described in this subsection (d-10) from carbon-free
2 energy resources that have satisfied the requirements of
3 subparagraph (B) of this paragraph (3). The contracts
4 procured pursuant to a procurement event shall reflect,
5 and be subject to, the following terms, requirements, and
6 limitations:

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

15 (ii) Contracts for carbon mitigation credits shall
16 commence with the delivery year beginning on June 1,
17 2022 and shall be for a term of 5 delivery years
18 concluding on May 31, 2027.

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

22 (I) one of the following energy price indices,
23 selected by the bidder at the time of the bid for
24 the term of the contract:

25 (aa) the weighted-average hourly day-ahead
26 price for the applicable delivery year at the

1 busbar of all resources procured pursuant to
2 this subsection (d-10), weighted by actual
3 production from the resources; or

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

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

25 (III) any value of monetized federal tax
26 credits, direct payments, or similar subsidy

1 provided to the carbon-free energy resource from
2 any unit of government that is not already
3 reflected in energy prices.

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

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

23 (iv) To ensure that retail customers in Northern
24 Illinois do not pay more for carbon mitigation credits
25 than the value such credits provide, and
26 notwithstanding the provisions of this subsection

1 (d-10), the Agency shall not accept bids for contracts
2 that exceed a customer protection cap equal to the
3 baseline costs of carbon-free energy resources.

4 The baseline costs for the applicable year shall
5 be the following:

6 (I) For the delivery year beginning June 1,
7 2022, the baseline costs shall be an amount equal
8 to \$30.30 per megawatt-hour.

9 (II) For the delivery year beginning June 1,
10 2023, the baseline costs shall be an amount equal
11 to \$32.50 per megawatt-hour.

12 (III) For the delivery year beginning June 1,
13 2024, the baseline costs shall be an amount equal
14 to \$33.43 per megawatt-hour.

15 (IV) For the delivery year beginning June 1,
16 2025, the baseline costs shall be an amount equal
17 to \$33.50 per megawatt-hour.

18 (V) For the delivery year beginning June 1,
19 2026, the baseline costs shall be an amount equal
20 to \$34.50 per megawatt-hour.

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

1 Therefore, the sale of carbon mitigation credits
2 provides the opportunity to receive an additional
3 amount per megawatt-hour in addition to the projected
4 prices for energy and capacity.

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

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

1 and particulate matter emissions that adversely affect the
2 citizens of this State. The selection of winning bids
3 shall also take into account the incremental environmental
4 benefits resulting from the procurement or procurements,
5 such as any existing environmental benefits that are
6 preserved by a procurement held under this subsection
7 (d-10) and would cease to exist if the procurement were
8 not held, including the preservation of carbon-free energy
9 resources. For those bidders having the same public
10 interest criteria score, the relative ranking of such
11 bidders shall be determined by price. The Plan shall
12 describe in detail how each public interest factor shall
13 be considered and weighted in the bid selection process to
14 ensure that the public interest criteria are applied to
15 the procurement. The Plan shall, to the extent practical
16 and permissible by federal law, ensure that successful
17 bidders make commercially reasonable efforts to apply for
18 federal tax credits, direct payments, or similar subsidy
19 programs that support carbon-free generation and for which
20 the successful bidder is eligible. Upon publishing of the
21 carbon mitigation credit procurement plan, copies of the
22 plan shall be posted and made publicly available on the
23 Agency's website. All interested parties shall have 7 days
24 following the date of posting to provide comment to the
25 Agency on the plan. All comments shall be posted to the
26 Agency's website. Following the end of the comment period,

1 but no more than 19 days later than the effective date of
2 this amendatory Act of the 102nd General Assembly, the
3 Agency shall revise the plan as necessary based on the
4 comments received and file its carbon mitigation credit
5 procurement plan with the Commission.

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

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

26 (ii) specifically address how the selection of

1 carbon-free energy resources takes into account the
2 incremental environmental benefits resulting from the
3 procurement, including any existing environmental
4 benefits that are preserved by the procurements held
5 under this amendatory Act of the 102nd General
6 Assembly and would have ceased to exist if the
7 procurements had not been held, such as the
8 preservation of carbon-free energy resources;

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

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

19 (II) an assessment of costs of replacement
20 with other carbon-free energy resources and
21 renewable energy resources, including wind and
22 photovoltaic generation, based upon an assessment
23 of the prices paid for renewable energy credits
24 through programs and procurements conducted
25 pursuant to subsection (c) of Section 1-75 of this
26 Act, and the additional storage necessary to

1 produce the same or similar capability of matching
2 customer usage patterns.

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

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

25 (G) The counterparty electric utility shall retire all
26 carbon mitigation credits used to comply with the

1 requirements of this subsection (d-10).

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

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

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

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

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

18 (h) The Agency shall assess fees to each bidder to recover
19 the costs incurred in connection with a competitive
20 procurement process.

21 (i) A renewable energy credit, carbon emission credit,
22 zero emission credit, or carbon mitigation credit can only be
23 used once to comply with a single portfolio or other standard
24 as set forth in subsection (c), subsection (d), or subsection
25 (d-5) of this Section, respectively. A renewable energy
26 credit, carbon emission credit, zero emission credit, or

1 carbon mitigation credit cannot be used to satisfy the
2 requirements of more than one standard. If more than one type
3 of credit is issued for the same megawatt hour of energy, only
4 one credit can be used to satisfy the requirements of a single
5 standard. After such use, the credit must be retired together
6 with any other credits issued for the same megawatt hour of
7 energy.

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

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