



Rep. Marlow H. Colvin

**Filed: 5/27/2009**

09600SB0658ham002

LRB096 06724 MJR 27586 a

1 AMENDMENT TO SENATE BILL 658

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 658, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Illinois Power Agency Act is amended by  
6 changing Sections 1-10, 1-20, and 1-75 and by adding Sections  
7 1-42 and 1-56 as follows:

8 (20 ILCS 3855/1-10)

9 (Text of Section before amendment by P.A. 95-1027)

10 Sec. 1-10. Definitions.

11 "Agency" means the Illinois Power Agency.

12 "Agency loan agreement" means any agreement pursuant to  
13 which the Illinois Finance Authority agrees to loan the  
14 proceeds of revenue bonds issued with respect to a project to  
15 the Agency upon terms providing for loan repayment installments  
16 at least sufficient to pay when due all principal of, interest

1 and premium, if any, on those revenue bonds, and providing for  
2 maintenance, insurance, and other matters in respect of the  
3 project.

4 "Authority" means the Illinois Finance Authority.

5 "Clean coal SNG facility" means a facility that uses a  
6 gasification process to produce substitute natural gas, that  
7 sequesters at least 90% of the total carbon emissions that the  
8 facility would otherwise emit and that uses petroleum coke or  
9 coal as a feedstock, with all such coal having a high  
10 bituminous rank and greater than 1.7 pounds of sulfur per  
11 million btu content.

12 "Commission" means the Illinois Commerce Commission.

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

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

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

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

25 (4) engineering, design, procurement, consulting,  
26 legal, accounting, title insurance, survey, appraisal,

1 escrow, trustee, collateral agency, interest rate hedging,  
2 interest rate swap, capitalized interest and other  
3 financing costs, and other expenses for professional  
4 services; and

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

13 "Department" means the Department of Commerce and Economic  
14 Opportunity.

15 "Director" means the Director of the Illinois Power Agency.

16 "Demand-response" means measures that decrease peak  
17 electricity demand or shift demand from peak to off-peak  
18 periods.

19 "Energy efficiency" means measures that reduce the amount  
20 of electricity required to achieve a given end use.

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

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

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

5 "Local government" means a unit of local government as  
6 defined in Article VII of Section 1 of the Illinois  
7 Constitution.

8 "Municipality" means a city, village, or incorporated  
9 town.

10 "Person" means any natural person, firm, partnership,  
11 corporation, either domestic or foreign, company, association,  
12 limited liability company, joint stock company, or association  
13 and includes any trustee, receiver, assignee, or personal  
14 representative thereof.

15 "Project" means the planning, bidding, and construction of  
16 a facility.

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

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

25 "Renewable energy credit" means a tradable credit that  
26 represents the environmental attributes of a certain amount of

1 energy produced from a renewable energy resource.

2 "Renewable energy resources" includes energy and its  
3 associated renewable energy credit or renewable energy credits  
4 from wind, solar thermal energy, photovoltaic cells and panels,  
5 biodiesel, crops and untreated and unadulterated organic waste  
6 biomass, trees and tree trimmings, hydropower that does not  
7 involve new construction or significant expansion of  
8 hydropower dams, and other alternative sources of  
9 environmentally preferable energy. For purposes of this Act,  
10 landfill gas produced in the State is considered a renewable  
11 energy resource. "Renewable energy resources" does not include  
12 the incineration or burning of tires, garbage, general  
13 household, institutional, and commercial waste, industrial  
14 lunchroom or office waste, landscape waste other than trees and  
15 tree trimmings, railroad crossties, utility poles, or  
16 construction or demolition debris, other than untreated and  
17 unadulterated waste wood.

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

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

1 present value of the total costs as calculated over the  
2 lifetime of the measures. A total resource cost test compares  
3 the sum of avoided electric utility costs, representing the  
4 benefits that accrue to the system and the participant in the  
5 delivery of those efficiency measures, to the sum of all  
6 incremental costs of end-use measures that are implemented due  
7 to the program (including both utility and participant  
8 contributions), plus costs to administer, deliver, and  
9 evaluate each demand-side program, to quantify the net savings  
10 obtained by substituting the demand-side program for supply  
11 resources. In calculating avoided costs of power and energy  
12 that an electric utility would otherwise have had to acquire,  
13 reasonable estimates shall be included of financial costs  
14 likely to be imposed by future regulations and legislation on  
15 emissions of greenhouse gases.

16 (Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09.)

17 (Text of Section after amendment by P.A. 95-1027)

18 Sec. 1-10. Definitions.

19 "Agency" means the Illinois Power Agency.

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21 which the Illinois Finance Authority agrees to loan the  
22 proceeds of revenue bonds issued with respect to a project to  
23 the Agency upon terms providing for loan repayment installments  
24 at least sufficient to pay when due all principal of, interest  
25 and premium, if any, on those revenue bonds, and providing for

1 maintenance, insurance, and other matters in respect of the  
2 project.

3 "Authority" means the Illinois Finance Authority.

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

1 June 1, 2009 (the effective date of Public Act 95-1027) ~~this~~  
2 ~~amendatory Act of the 95th General Assembly.~~

3 "Clean coal SNG facility" means a facility that uses a  
4 gasification process to produce substitute natural gas, that  
5 sequesters at least 90% of the total carbon emissions that the  
6 facility would otherwise emit and that uses petroleum coke or  
7 coal as a feedstock, with all such coal having a high  
8 bituminous rank and greater than 1.7 pounds of sulfur per  
9 million btu content.

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12 construction of a facility" means:

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14 improvements in connection therewith and equipment and  
15 other property, rights, and easements acquired that are  
16 deemed necessary for the operation and maintenance of the  
17 facility;

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

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21 facility, placement, underwriting, syndication, credit  
22 enhancement, and rating agency fees;

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



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

3 (5) the costs of plans, specifications, site study and  
4 investigation, installation, surveys, other Agency costs  
5 and estimates of costs, and other expenses necessary or  
6 incidental to determining the feasibility of any project,  
7 together with such other expenses as may be necessary or  
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10 in operation.

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12 Opportunity.

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20 Section 16-102 of the Public Utilities Act.

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

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

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

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4 defined in Article VII of Section 1 of the Illinois  
5 Constitution.

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7 town.

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10 limited liability company, joint stock company, or association  
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12 representative thereof.

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21 interests, together with any liens, judgments, mortgages, or  
22 other claims or security interests related to real property.

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

26 "Renewable energy resources" includes energy and its

1 associated renewable energy credit or renewable energy credits  
2 from wind, solar thermal energy, photovoltaic cells and panels,  
3 biodiesel, crops and untreated and unadulterated organic waste  
4 biomass, trees and tree trimmings, hydropower that does not  
5 involve new construction or significant expansion of  
6 hydropower dams, and other alternative sources of  
7 environmentally preferable energy. For purposes of this Act,  
8 landfill gas produced in the State is considered a renewable  
9 energy resource. "Renewable energy resources" does not include  
10 the incineration or burning of tires, garbage, general  
11 household, institutional, and commercial waste, industrial  
12 lunchroom or office waste, landscape waste other than trees and  
13 tree trimmings, railroad crossties, utility poles, or  
14 construction or demolition debris, other than untreated and  
15 unadulterated waste wood.

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

20 "Sequester" means permanent storage of carbon dioxide by  
21 injecting it into a saline aquifer, a depleted gas reservoir,  
22 or an oil reservoir, directly or through an enhanced oil  
23 recovery process that may involve intermediate storage in a  
24 salt dome.

25 "Servicing agreement" means (i) in the case of an electric  
26 utility, an agreement between the owner of a clean coal

1 facility and such electric utility, which agreement shall have  
2 terms and conditions meeting the requirements of paragraph (3)  
3 of subsection (d) of Section 1-75, and (ii) in the case of an  
4 alternative retail electric supplier, an agreement between the  
5 owner of a clean coal facility and such alternative retail  
6 electric supplier, which agreement shall have terms and  
7 conditions meeting the requirements of Section 16-115(d) (5) of  
8 the Public Utilities Act.

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

13 "Total resource cost test" or "TRC test" means a standard  
14 that is met if, for an investment in energy efficiency or  
15 demand-response measures, the benefit-cost ratio is greater  
16 than one. The benefit-cost ratio is the ratio of the net  
17 present value of the total benefits of the program to the net  
18 present value of the total costs as calculated over the  
19 lifetime of the measures. A total resource cost test compares  
20 the sum of avoided electric utility costs, representing the  
21 benefits that accrue to the system and the participant in the  
22 delivery of those efficiency measures, to the sum of all  
23 incremental costs of end-use measures that are implemented due  
24 to the program (including both utility and participant  
25 contributions), plus costs to administer, deliver, and  
26 evaluate each demand-side program, to quantify the net savings

1 obtained by substituting the demand-side program for supply  
2 resources. In calculating avoided costs of power and energy  
3 that an electric utility would otherwise have had to acquire,  
4 reasonable estimates shall be included of financial costs  
5 likely to be imposed by future regulations and legislation on  
6 emissions of greenhouse gases.

7 (Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09;  
8 95-1027, eff. 6-1-09; revised 1-14-09.)

9 (20 ILCS 3855/1-20)

10 Sec. 1-20. General powers of the Agency.

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

12 (1) Develop electricity procurement plans to ensure  
13 adequate, reliable, affordable, efficient, and  
14 environmentally sustainable electric service at the lowest  
15 total cost over time, taking into account any benefits of  
16 price stability, for electric utilities that on December  
17 31, 2005 provided electric service to at least 100,000  
18 customers in Illinois. The procurement plans shall be  
19 updated on an annual basis and shall include electricity  
20 generated from renewable resources sufficient to achieve  
21 the standards specified in this Act.

22 (2) Conduct competitive procurement processes to  
23 procure the supply resources identified in the procurement  
24 plan, pursuant to Section 16-111.5 of the Public Utilities  
25 Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

5           (21) To accept and expend appropriations.

6           (22) To engage in any activity or operation that is  
7           incidental to and in furtherance of efficient operation to  
8           accomplish the Agency's purposes.

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

15          (24) To establish and collect charges and fees as  
16          described in this Act.

17          (25) To procure natural gas and electricity  
18          commodities, and alternate resources such as demand  
19          response and energy efficiency: (i) to support the  
20          operations of State Agencies; and for (ii) local  
21          governments that agree to such terms and conditions  
22          included in intergovernmental agreements between the  
23          Agency and the local government. These procurements are not  
24          subject to the Procurement Code. This item (25) is an  
25          exclusive power of the Agency and not a power of the  
26          Department of Central Management Services. All moneys

1       collected from the State agencies or local governments as  
2       payment for procurement pursuant to this item (25) shall be  
3       deposited into the Retail Commodity Revolving Fund. The  
4       Agency may also provide estimated billing to the State  
5       agencies or local governments for procurements under this  
6       item (25).

7       (26) To procure substitute natural gas from a facility  
8       that meets the criteria specified in subsection (a) of  
9       Section 1-56 of this Act, on terms and conditions that may  
10      be approved by the Agency pursuant to subsection (d) of  
11      Section 1-56 of this Act, to support the operations of  
12      State agencies and local governments that agree to such  
13      terms and conditions. These procurements are not subject to  
14      the Procurement Code.

15      (Source: P.A. 95-481, eff. 8-28-07.)

16      (20 ILCS 3855/1-42 new)

17      Sec. 1-42. Retail Commodity Revolving Fund.

18      (a) The Retail Commodity Revolving Fund is created as a  
19      special fund in the State treasury.

20      (b) The Retail Commodity Revolving Fund shall be  
21      administered by the Agency for the Agency's operations as  
22      specified in this Section.

23      (c) All moneys used by the Agency from the Retail Commodity  
24      Revolving Fund are subject to appropriation by the General  
25      Assembly.

1       (d) The Retail Commodity Revolving Fund shall have all fees  
2 and other monies received by the Illinois Power Agency in  
3 payment for procuring natural gas and electricity commodities,  
4 and alternative resources such as demand response and energy  
5 efficiency services rendered pursuant to this Act paid into it.  
6 Except as otherwise provided in this Section, the monies in  
7 this fund shall be used by the Agency as reimbursement for  
8 expenditures incurred in relation to procurement services  
9 pursuant to item (25) of subsection (b) of Section 1-20 of this  
10 Act.

11       (20 ILCS 3855/1-56 new)

12       Sec. 1-56. Clean coal SNG facility construction.

13       (a) It is the intention of the General Assembly to provide  
14 additional long-term natural gas price stability to the State  
15 and consumers by promoting the development of a clean coal SNG  
16 facility that would produce a minimum annual output of 30 Bcf  
17 of SNG and commence construction no later than June 1, 2013 on  
18 a brownfield site in a municipality with at least one million  
19 residents. The costs associated with preparing a facility cost  
20 report for such a facility, which contains all of the  
21 information required by subsection (b) of this Section, may be  
22 paid or reimbursed pursuant to subsection (c) of this Section.

23       (b) The facility cost report for a facility that meets the  
24 criteria set forth in subsection (a) of this Section shall be  
25 prepared by a duly licensed engineering firm that details the

1 estimated capital costs payable to one or more contractors or  
2 suppliers for the engineering, procurement, and construction  
3 of the components comprising the facility and the estimated  
4 costs of operation and maintenance of the facility. The report  
5 must be provided to the General Assembly and the Agency on or  
6 before April 30, 2010. The facility cost report shall include  
7 all off the following:

8 (1) An estimate of the capital cost of the core plant  
9 based on a front-end engineering and design study. The core  
10 plant shall include all civil, structural, mechanical,  
11 electrical, control, and safety systems. The quoted  
12 construction costs shall be expressed in nominal dollars as  
13 of the date that the quote is prepared and shall include:

14 (A) capitalized financing costs during  
15 construction;

16 (B) taxes, insurance, and other owner's costs; and

17 (C) any assumed escalation in materials and labor  
18 beyond the date as of which the construction cost quote  
19 is expressed;

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

1 natural gas supply, water supply, water discharge,  
2 landfill, access roads, and coal delivery. The front-end  
3 engineering and design study and the cost study for the  
4 balance of the plant shall include sufficient design work  
5 to permit quantification of major categories of materials,  
6 commodities and labor hours, and receipt of quotes from  
7 vendors of major equipment required to construct and  
8 operate the facility.

9 (3) An operating and maintenance cost quote that will  
10 provide the estimated cost of delivered fuel, personnel,  
11 maintenance contracts, chemicals, catalysts, consumables,  
12 spares, and other fixed and variable operating and  
13 maintenance costs. This quote is subject to the following  
14 requirements:

15 (A) The delivered fuel cost estimate shall be  
16 provided by a recognized third party expert or experts  
17 in the fuel and transportation industries.

18 (B) The balance of the operating and maintenance  
19 cost quote, excluding delivered fuel costs shall be  
20 developed based on the inputs provided by a duly  
21 licensed engineering firm performing the construction  
22 cost quote, potential vendors under long-term service  
23 agreements and plant operating agreements, or  
24 recognized third-party plant operator or operators.

25 The operating and maintenance cost quote shall be  
26 expressed in nominal dollars as of the date that the quote

1       is prepared and shall include (i) taxes, insurance, and  
2       other owner's costs and (ii) any assumed escalation in  
3       materials and labor beyond the date as of which the  
4       operating and maintenance cost quote is expressed.

5       (c) Reasonable amounts paid or due to be paid by the owner  
6       or owners of the clean coal SNG facility to third parties  
7       unrelated to the owner or owners to prepare the facility cost  
8       report may be reimbursed or paid up to \$10 million, through  
9       funding authorized pursuant to 20 ILCS 3501/825-65.

10       (d) The Agency shall review the facility report and based  
11       on that report, consider whether to enter into long term  
12       contracts to purchase SNG from the facility pursuant to Section  
13       1-20 of this Act. To assist with its evaluation of the report,  
14       the Agency may hire one or more experts or consultants, the  
15       reasonable costs of which, not to exceed \$250,000, shall be  
16       paid for by the owner or owners of the clean coal SNG facility  
17       submitting the facility cost report. The Agency may begin the  
18       process of selecting such experts or consultants prior to  
19       receipt of the facility cost report.

20       (20 ILCS 3855/1-75)

21       (Text of Section before amendment by P.A. 95-1027)

22       Sec. 1-75. Planning and Procurement Bureau. The Planning  
23       and Procurement Bureau has the following duties and  
24       responsibilities:

25       (a) The Planning and Procurement Bureau shall each

1 year, beginning in 2008, develop procurement plans and  
2 conduct competitive procurement processes in accordance  
3 with the requirements of Section 16-111.5 of the Public  
4 Utilities Act for the eligible retail customers of electric  
5 utilities that on December 31, 2005 provided electric  
6 service to at least 100,000 customers in Illinois. For the  
7 purposes of this Section, the term "eligible retail  
8 customers" has the same definition as found in Section  
9 16-111.5(a) of the Public Utilities Act.

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



1 transmission organizations;

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

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

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

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

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

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

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

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

26 (E) expertise in credit and contract

1 protocols;

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

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

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

24 (A) failure to satisfy qualification criteria;

25 (B) identification of a conflict of interest;

26 or

1           (C) evidence of inappropriate bias for or  
2           against potential bidders or the affected  
3           utilities.

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

15          (4) The Agency shall issue requests for proposals  
16          to the qualified experts or expert consulting firms to  
17          develop a procurement plan for the affected utilities  
18          and to serve as procurement administrator.

19          (5) The Agency shall select an expert or expert  
20          consulting firm to develop procurement plans based on  
21          the proposals submitted and shall award one-year  
22          contracts to those selected with an option for the  
23          Agency for a one-year renewal.

24          (6) The Agency shall select an expert or expert  
25          consulting firm, with approval of the Commission, to  
26          serve as procurement administrator based on the

1 proposals submitted. If the Commission rejects, within  
2 5 days, the Agency's selection, the Agency shall submit  
3 another recommendation within 3 days based on the  
4 proposals submitted. The Agency shall award a one-year  
5 contract to the expert or expert consulting firm so  
6 selected with Commission approval with an option for  
7 the Agency for a one-year renewal.

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

19 (c) Renewable portfolio standard.

20 (1) The procurement plans shall include  
21 cost-effective renewable energy resources. A minimum  
22 percentage of each utility's total supply to serve the  
23 load of eligible retail customers, as defined in  
24 Section 16-111.5(a) of the Public Utilities Act,  
25 procured for each of the following years shall be  
26 generated from cost-effective renewable energy

1 resources: at least 2% by June 1, 2008; at least 4% by  
2 June 1, 2009; at least 5% by June 1, 2010; at least 6%  
3 by June 1, 2011; at least 7% by June 1, 2012; at least  
4 8% by June 1, 2013; at least 9% by June 1, 2014; at  
5 least 10% by June 1, 2015; and increasing by at least  
6 1.5% each year thereafter to at least 25% by June 1,  
7 2025. To the extent that it is available, at least 75%  
8 of the renewable energy resources used to meet these  
9 standards shall come from wind generation. For  
10 purposes of this Section, "cost-effective" means that  
11 the costs of procuring renewable energy resources do  
12 not cause the limit stated in paragraph (2) of this  
13 subsection (c) to be exceeded.

14 (2) For purposes of this subsection (c), the  
15 required procurement of cost-effective renewable  
16 energy resources for a particular year shall be  
17 measured as a percentage of the actual amount of  
18 electricity (megawatt-hours) supplied by the electric  
19 utility to eligible retail customers in the planning  
20 year ending immediately prior to the procurement. For  
21 purposes of this subsection (c), the amount per  
22 kilowatthour means the total amount paid for electric  
23 service expressed on a per kilowatthour basis. For  
24 purposes of this subsection (c), the total amount paid  
25 for electric service includes without limitation  
26 amounts paid for supply, transmission, distribution,

1 surcharges, and add-on taxes.

2 Notwithstanding the requirements of this  
3 subsection (c), the total of renewable energy  
4 resources procured pursuant to the procurement plan  
5 for any single year shall be reduced by an amount  
6 necessary to limit the annual estimated average net  
7 increase due to the costs of these resources included  
8 in the amounts paid by eligible retail customers in  
9 connection with electric service to:

10 (A) in 2008, no more than 0.5% of the amount  
11 paid per kilowatthour by those customers during  
12 the year ending May 31, 2007;

13 (B) in 2009, the greater of an additional 0.5%  
14 of the amount paid per kilowatthour by those  
15 customers during the year ending May 31, 2008 or 1%  
16 of the amount paid per kilowatthour by those  
17 customers during the year ending May 31, 2007;

18 (C) in 2010, the greater of an additional 0.5%  
19 of the amount paid per kilowatthour by those  
20 customers during the year ending May 31, 2009 or  
21 1.5% of the amount paid per kilowatthour by those  
22 customers during the year ending May 31, 2007;

23 (D) in 2011, the greater of an additional 0.5%  
24 of the amount paid per kilowatthour by those  
25 customers during the year ending May 31, 2010 or 2%  
26 of the amount paid per kilowatthour by those

1 customers during the year ending May 31, 2007; and

2 (E) thereafter, the amount of renewable energy  
3 resources procured pursuant to the procurement  
4 plan for any single year shall be reduced by an  
5 amount necessary to limit the estimated average  
6 net increase due to the cost of these resources  
7 included in the amounts paid by eligible retail  
8 customers in connection with electric service to  
9 no more than the greater of 2.015% of the amount  
10 paid per kilowatthour by those customers during  
11 the year ending May 31, 2007 or the incremental  
12 amount per kilowatthour paid for these resources  
13 in 2011.

14 No later than June 30, 2011, the Commission shall  
15 review the limitation on the amount of renewable energy  
16 resources procured pursuant to this subsection (c) and  
17 report to the General Assembly its findings as to  
18 whether that limitation unduly constrains the  
19 procurement of cost-effective renewable energy  
20 resources.

21 (3) Through June 1, 2011, renewable energy  
22 resources shall be counted for the purpose of meeting  
23 the renewable energy standards set forth in paragraph  
24 (1) of this subsection (c) only if they are generated  
25 from facilities located in the State, provided that  
26 cost-effective renewable energy resources are

1 available from those facilities. If those  
2 cost-effective resources are not available in  
3 Illinois, they shall be procured in states that adjoin  
4 Illinois and may be counted towards compliance. If  
5 those cost-effective resources are not available in  
6 Illinois or in states that adjoin Illinois, they shall  
7 be purchased elsewhere and shall be counted towards  
8 compliance. After June 1, 2011, cost-effective  
9 renewable energy resources located in Illinois and in  
10 states that adjoin Illinois may be counted towards  
11 compliance with the standards set forth in paragraph  
12 (1) of this subsection (c). If those cost-effective  
13 resources are not available in Illinois or in states  
14 that adjoin Illinois, they shall be purchased  
15 elsewhere and shall be counted towards compliance.

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

19 (d) The draft procurement plans are subject to public  
20 comment, as required by Section 16-111.5 of the Public  
21 Utilities Act.

22 (e) The Agency shall submit the final procurement plan  
23 to the Commission. The Agency shall revise a procurement  
24 plan if the Commission determines that it does not meet the  
25 standards set forth in Section 16-111.5 of the Public  
26 Utilities Act.



1           (f) The Agency shall assess fees to each affected  
2 utility to recover the costs incurred in preparation of the  
3 annual procurement plan for the utility.

4           (g) The Agency shall assess fees to each bidder to  
5 recover the costs incurred in connection with a competitive  
6 procurement process.

7           (i) Except in cases where the Agency or the Commission  
8 has solicited written or oral comment, firms, including,  
9 their representatives and trade associations, that are  
10 eligible to bid in Agency procurements must not communicate  
11 with the Agency or any consultants retained by the Agency  
12 on nonprocedural issues.

13 (Source: P.A. 95-481, eff. 8-28-07.)

14 (Text of Section after amendment by P.A. 95-1027)

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

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

1 customers" has the same definition as found in Section  
2 16-111.5(a) of the Public Utilities Act.

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

9 (A) direct previous experience assembling  
10 large-scale power supply plans or portfolios for  
11 end-use customers;

12 (B) an advanced degree in economics,  
13 mathematics, engineering, risk management, or a  
14 related area of study;

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

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

21 (E) expertise in credit protocols and  
22 familiarity with contract protocols;

23 (F) adequate resources to perform and fulfill  
24 the required functions and responsibilities; and

25 (G) the absence of a conflict of interest and  
26 inappropriate bias for or against potential

1           bidders or the affected electric utilities.

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

8           (A) direct previous experience administering a  
9 large-scale competitive procurement process;

10           (B) an advanced degree in economics,  
11 mathematics, engineering, or a related area of  
12 study;

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

15           (D) expertise in wholesale electricity market  
16 rules, including those established by the Federal  
17 Energy Regulatory Commission and regional  
18 transmission organizations;

19           (E) expertise in credit and contract  
20 protocols;

21           (F) adequate resources to perform and fulfill  
22 the required functions and responsibilities; and

23           (G) the absence of a conflict of interest and  
24 inappropriate bias for or against potential  
25 bidders or the affected electric utilities.

26           (3) The Agency shall provide affected utilities

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

17 (A) failure to satisfy qualification criteria;

18 (B) identification of a conflict of interest;

19 or

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

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

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

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

12 (5) The Agency shall select an expert or expert  
13 consulting firm to develop procurement plans based on  
14 the proposals submitted and shall award one-year  
15 contracts to those selected with an option for the  
16 Agency for a one-year renewal.

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

1           (b) The experts or expert consulting firms retained by  
2           the Agency shall, as appropriate, prepare procurement  
3           plans, and conduct a competitive procurement process as  
4           prescribed in Section 16-111.5 of the Public Utilities Act,  
5           to ensure adequate, reliable, affordable, efficient, and  
6           environmentally sustainable electric service at the lowest  
7           total cost over time, taking into account any benefits of  
8           price stability, for eligible retail customers of electric  
9           utilities that on December 31, 2005 provided electric  
10          service to at least 100,000 customers in the State of  
11          Illinois.

12          (c) Renewable portfolio standard.

13           (1) The procurement plans shall include  
14           cost-effective renewable energy resources. A minimum  
15           percentage of each utility's total supply to serve the  
16           load of eligible retail customers, as defined in  
17           Section 16-111.5(a) of the Public Utilities Act,  
18           procured for each of the following years shall be  
19           generated from cost-effective renewable energy  
20           resources: at least 2% by June 1, 2008; at least 4% by  
21           June 1, 2009; at least 5% by June 1, 2010; at least 6%  
22           by June 1, 2011; at least 7% by June 1, 2012; at least  
23           8% by June 1, 2013; at least 9% by June 1, 2014; at  
24           least 10% by June 1, 2015; and increasing by at least  
25           1.5% each year thereafter to at least 25% by June 1,  
26           2025. To the extent that it is available, at least 75%

1 of the renewable energy resources used to meet these  
2 standards shall come from wind generation. For  
3 purposes of this subsection (c), "cost-effective"  
4 means that the costs of procuring renewable energy  
5 resources do not cause the limit stated in paragraph  
6 (2) of this subsection (c) to be exceeded and do not  
7 exceed benchmarks based on market prices for renewable  
8 energy resources in the region, which shall be  
9 developed by the procurement administrator, in  
10 consultation with the Commission staff, Agency staff,  
11 and the procurement monitor and shall be subject to  
12 Commission review and approval.

13 (2) For purposes of this subsection (c), the  
14 required procurement of cost-effective renewable  
15 energy resources for a particular year shall be  
16 measured as a percentage of the actual amount of  
17 electricity (megawatt-hours) supplied by the electric  
18 utility to eligible retail customers in the planning  
19 year ending immediately prior to the procurement. 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  
24 for electric service includes without limitation  
25 amounts paid for supply, transmission, distribution,  
26 surcharges, and add-on taxes.

1           Notwithstanding the requirements of this  
2 subsection (c), the total of renewable energy  
3 resources procured pursuant to the procurement plan  
4 for any single year shall be reduced by an amount  
5 necessary to limit the annual estimated average net  
6 increase due to the costs of these resources included  
7 in the amounts paid by eligible retail customers in  
8 connection with electric service to:

9           (A) in 2008, no more than 0.5% of the amount  
10 paid per kilowatthour by those customers during  
11 the year ending May 31, 2007;

12           (B) in 2009, the greater of an additional 0.5%  
13 of the amount paid per kilowatthour by those  
14 customers during the year ending May 31, 2008 or 1%  
15 of the amount paid per kilowatthour by those  
16 customers during the year ending May 31, 2007;

17           (C) in 2010, the greater of an additional 0.5%  
18 of the amount paid per kilowatthour by those  
19 customers during the year ending May 31, 2009 or  
20 1.5% of the amount paid per kilowatthour by those  
21 customers during the year ending May 31, 2007;

22           (D) in 2011, the greater of an additional 0.5%  
23 of the amount paid per kilowatthour by those  
24 customers during the year ending May 31, 2010 or 2%  
25 of the amount paid per kilowatthour by those  
26 customers during the year ending May 31, 2007; and



1           (E) thereafter, the amount of renewable energy  
2           resources procured pursuant to the procurement  
3           plan for any single year shall be reduced by an  
4           amount necessary to limit the estimated average  
5           net increase due to the cost of these resources  
6           included in the amounts paid by eligible retail  
7           customers in connection with electric service to  
8           no more than the greater of 2.015% of the amount  
9           paid per kilowatthour by those customers during  
10          the year ending May 31, 2007 or the incremental  
11          amount per kilowatthour paid for these resources  
12          in 2011.

13          No later than June 30, 2011, the Commission shall  
14          review the limitation on the amount of renewable energy  
15          resources procured pursuant to this subsection (c) and  
16          report to the General Assembly its findings as to  
17          whether that limitation unduly constrains the  
18          procurement of cost-effective renewable energy  
19          resources.

20          (3) Through June 1, 2011, renewable energy  
21          resources shall be counted for the purpose of meeting  
22          the renewable energy standards set forth in paragraph  
23          (1) of this subsection (c) only if they are generated  
24          from facilities located in the State, provided that  
25          cost-effective renewable energy resources are  
26          available from those facilities. If those

1 cost-effective resources are not available in  
2 Illinois, they shall be procured in states that adjoin  
3 Illinois and may be counted towards compliance. If  
4 those cost-effective resources are not available in  
5 Illinois or in states that adjoin Illinois, they shall  
6 be purchased elsewhere and shall be counted towards  
7 compliance. After June 1, 2011, cost-effective  
8 renewable energy resources located in Illinois and in  
9 states that adjoin Illinois may be counted towards  
10 compliance with the standards set forth in paragraph  
11 (1) of this subsection (c). If those cost-effective  
12 resources are not available in Illinois or in states  
13 that adjoin Illinois, they shall be purchased  
14 elsewhere and shall be counted towards compliance.

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

18 (d) Clean coal portfolio standard.

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

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

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

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

1 Utilities Act.

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

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

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

1 service to:

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

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

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

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

20 (E) thereafter, the total amount paid under  
21 sourcing agreements with clean coal facilities  
22 pursuant to the procurement plan for any single  
23 year shall be reduced by an amount necessary to  
24 limit the estimated average net increase due to the  
25 cost of these resources included in the amounts  
26 paid by eligible retail customers in connection

1 with electric service to no more than the greater  
2 of (i) 2.015% of the amount paid per kilowatthour  
3 by those customers during the year ending May 31,  
4 2009 or (ii) the incremental amount per  
5 kilowatthour paid for these resources in 2013.  
6 These requirements may be altered only as provided  
7 by statute. No later than June 30, 2015, the  
8 Commission shall review the limitation on the  
9 total amount paid under sourcing agreements, if  
10 any, with clean coal facilities pursuant to this  
11 subsection (d) and report to the General Assembly  
12 its findings as to whether that limitation unduly  
13 constrains the amount of electricity generated by  
14 cost-effective clean coal facilities that is  
15 covered by sourcing agreements.

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

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

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

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

25 (ii) provide that all miscellaneous net  
26 revenue, including but not limited to net revenue

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

14 (B) power purchase provisions, which shall:

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

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

22 (iii) require the utility party to such  
23 sourcing agreement to buy from the initial clean  
24 coal facility in each hour an amount of energy  
25 equal to all clean coal energy made available from  
26 the initial clean coal facility during such hour



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

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

20 (C) contract for differences provisions, which  
21 shall:

22 (i) require the utility party to such sourcing  
23 agreement to contract with the initial clean coal  
24 facility in each hour with respect to an amount of  
25 energy equal to all clean coal energy made  
26 available from the initial clean coal facility

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

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

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

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

13 (D) general provisions, which shall:

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

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

25 (iii) provide that all costs associated with  
26 the initial clean coal facility will be

1           periodically reported to the Federal Energy  
2           Regulatory Commission and to purchasers in  
3           accordance with applicable laws governing  
4           cost-based wholesale power contracts;

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

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

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

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

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

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

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

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

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

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

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

1 approved by the Federal Energy Regulatory  
2 Commission pursuant to Section 205 of the Federal  
3 Power Act;

4 (xii) provide that any changes to the terms of  
5 the contract, insofar as such changes relate to the  
6 power purchase provisions, are subject to review  
7 under the public interest standard applied by the  
8 Federal Energy Regulatory Commission pursuant to  
9 Sections 205 and 206 of the Federal 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  
19 initial clean coal facility shall submit to the  
20 Commission, the Agency, and the General Assembly a  
21 front-end engineering and design study, a facility  
22 cost report, method of financing (including but  
23 not limited to structure and associated costs),  
24 and an operating and maintenance cost quote for the  
25 facility (collectively "facility cost report"),  
26 which shall be prepared in accordance with the



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

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

1 initial clean coal facility. The Commission and  
2 Agency may begin the process of selecting such  
3 experts or consultants prior to receipt of the  
4 facility cost report.

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

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

1 agreement, and issue an order finding that the  
2 sourcing agreement is prudent and reasonable.

3 The facility cost report shall be prepared as follows:

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

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

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

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

3 The quoted construction costs shall be expressed  
4 in nominal dollars as of the date that the quote is  
5 prepared and shall include (1) capitalized financing  
6 costs during construction, (2) taxes, insurance, and  
7 other owner's costs, and (3) an assumed escalation in  
8 materials and labor beyond the date as of which the  
9 construction cost quote is expressed.

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

17 (C) The facility cost report shall also include an  
18 operating and maintenance cost quote that will provide  
19 the estimated cost of delivered fuel, personnel,  
20 maintenance contracts, chemicals, catalysts,  
21 consumables, spares, and other fixed and variable  
22 operations and maintenance costs.

23 (a) The delivered fuel cost estimate will be  
24 provided by a recognized third party expert or  
25 experts in the fuel and transportation industries.

26 (b) The balance of the operating and

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

9 The operating and maintenance cost quote  
10 (including the cost of the front end engineering  
11 and design study) shall be expressed in nominal  
12 dollars as of the date that the quote is prepared  
13 and shall include (1) taxes, insurance, and other  
14 owner's costs, and (2) an assumed escalation in  
15 materials and labor beyond the date as of which the  
16 operating and maintenance cost quote is expressed.

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

23 (E) Amounts paid to third parties unrelated to the  
24 owner or owners of the initial clean coal facility to  
25 prepare the core plant construction cost quote,  
26 including the front end engineering and design study,

1           and the operating and maintenance cost quote will be  
2           reimbursed through Coal Development Bonds.

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

1       consultation with the Commission staff, Agency staff and  
2       the procurement monitor, subject to Commission review and  
3       approval. The Commission shall have authority to inspect  
4       all books and records associated with these clean coal  
5       facilities during the term of any such contract.

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

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

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

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

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

26      (i) Except in cases where the Agency or the Commission

1       has solicited written or oral comment, firms, including,  
2       their representatives and trade associations, that are  
3       eligible to bid in Agency procurements must not communicate  
4       with the Agency or any consultants retained by the Agency  
5       on nonprocedural issues.

6       (Source: P.A. 95-481, eff. 8-28-07; 95-1027, eff. 6-1-09.)

7       Section 10. The State Finance Act is amended by adding  
8       Section 5.719 as follows:

9       (30 ILCS 105/5.719 new)

10       Sec. 5.719. The Retail Commodity Revolving Fund.

11       Section 95. No acceleration or delay. Where this Act makes  
12       changes in a statute that is represented in this Act by text  
13       that is not yet or no longer in effect (for example, a Section  
14       represented by multiple versions), the use of that text does  
15       not accelerate or delay the taking effect of (i) the changes  
16       made by this Act or (ii) provisions derived from any other  
17       Public Act.

18       Section 99. Effective date. This Act takes effect upon  
19       becoming law."