

1 AN ACT concerning regulation.

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

4 Section 5. The Freedom of Information Act is amended by
5 changing Section 7.5 as follows:

6 (5 ILCS 140/7.5)

7 Sec. 7.5. Statutory exemptions. To the extent provided for
8 by the statutes referenced below, the following shall be
9 exempt from inspection and copying:

10 (a) All information determined to be confidential
11 under Section 4002 of the Technology Advancement and
12 Development Act.

13 (b) Library circulation and order records identifying
14 library users with specific materials under the Library
15 Records Confidentiality Act.

16 (c) Applications, related documents, and medical
17 records received by the Experimental Organ Transplantation
18 Procedures Board and any and all documents or other
19 records prepared by the Experimental Organ Transplantation
20 Procedures Board or its staff relating to applications it
21 has received.

22 (d) Information and records held by the Department of
23 Public Health and its authorized representatives relating

1 to known or suspected cases of sexually transmissible
2 disease or any information the disclosure of which is
3 restricted under the Illinois Sexually Transmissible
4 Disease Control Act.

5 (e) Information the disclosure of which is exempted
6 under Section 30 of the Radon Industry Licensing Act.

7 (f) Firm performance evaluations under Section 55 of
8 the Architectural, Engineering, and Land Surveying
9 Qualifications Based Selection Act.

10 (g) Information the disclosure of which is restricted
11 and exempted under Section 50 of the Illinois Prepaid
12 Tuition Act.

13 (h) Information the disclosure of which is exempted
14 under the State Officials and Employees Ethics Act, and
15 records of any lawfully created State or local inspector
16 general's office that would be exempt if created or
17 obtained by an Executive Inspector General's office under
18 that Act.

19 (i) Information contained in a local emergency energy
20 plan submitted to a municipality in accordance with a
21 local emergency energy plan ordinance that is adopted
22 under Section 11-21.5-5 of the Illinois Municipal Code.

23 (j) Information and data concerning the distribution
24 of surcharge moneys collected and remitted by carriers
25 under the Emergency Telephone System Act.

26 (k) Law enforcement officer identification information

1 or driver identification information compiled by a law
2 enforcement agency or the Department of Transportation
3 under Section 11-212 of the Illinois Vehicle Code.

4 (l) Records and information provided to a residential
5 health care facility resident sexual assault and death
6 review team or the Executive Council under the Abuse
7 Prevention Review Team Act.

8 (m) Information provided to the predatory lending
9 database created pursuant to Article 3 of the Residential
10 Real Property Disclosure Act, except to the extent
11 authorized under that Article.

12 (n) Defense budgets and petitions for certification of
13 compensation and expenses for court appointed trial
14 counsel as provided under Sections 10 and 15 of the
15 Capital Crimes Litigation Act. This subsection (n) shall
16 apply until the conclusion of the trial of the case, even
17 if the prosecution chooses not to pursue the death penalty
18 prior to trial or sentencing.

19 (o) Information that is prohibited from being
20 disclosed under Section 4 of the Illinois Health and
21 Hazardous Substances Registry Act.

22 (p) Security portions of system safety program plans,
23 investigation reports, surveys, schedules, lists, data, or
24 information compiled, collected, or prepared by or for the
25 Department of Transportation under Sections 2705-300 and
26 2705-616 of the Department of Transportation Law of the

1 Civil Administrative Code of Illinois, the Regional
2 Transportation Authority under Section 2.11 of the
3 Regional Transportation Authority Act, or the St. Clair
4 County Transit District under the Bi-State Transit Safety
5 Act.

6 (q) Information prohibited from being disclosed by the
7 Personnel Record Review Act.

8 (r) Information prohibited from being disclosed by the
9 Illinois School Student Records Act.

10 (s) Information the disclosure of which is restricted
11 under Section 5-108 of the Public Utilities Act.

12 (t) All identified or deidentified health information
13 in the form of health data or medical records contained
14 in, stored in, submitted to, transferred by, or released
15 from the Illinois Health Information Exchange, and
16 identified or deidentified health information in the form
17 of health data and medical records of the Illinois Health
18 Information Exchange in the possession of the Illinois
19 Health Information Exchange Office due to its
20 administration of the Illinois Health Information
21 Exchange. The terms "identified" and "deidentified" shall
22 be given the same meaning as in the Health Insurance
23 Portability and Accountability Act of 1996, Public Law
24 104-191, or any subsequent amendments thereto, and any
25 regulations promulgated thereunder.

26 (u) Records and information provided to an independent

1 team of experts under the Developmental Disability and
2 Mental Health Safety Act (also known as Brian's Law).

3 (v) Names and information of people who have applied
4 for or received Firearm Owner's Identification Cards under
5 the Firearm Owners Identification Card Act or applied for
6 or received a concealed carry license under the Firearm
7 Concealed Carry Act, unless otherwise authorized by the
8 Firearm Concealed Carry Act; and databases under the
9 Firearm Concealed Carry Act, records of the Concealed
10 Carry Licensing Review Board under the Firearm Concealed
11 Carry Act, and law enforcement agency objections under the
12 Firearm Concealed Carry Act.

13 (v-5) Records of the Firearm Owner's Identification
14 Card Review Board that are exempted from disclosure under
15 Section 10 of the Firearm Owners Identification Card Act.

16 (w) Personally identifiable information which is
17 exempted from disclosure under subsection (g) of Section
18 19.1 of the Toll Highway Act.

19 (x) Information which is exempted from disclosure
20 under Section 5-1014.3 of the Counties Code or Section
21 8-11-21 of the Illinois Municipal Code.

22 (y) Confidential information under the Adult
23 Protective Services Act and its predecessor enabling
24 statute, the Elder Abuse and Neglect Act, including
25 information about the identity and administrative finding
26 against any caregiver of a verified and substantiated

1 decision of abuse, neglect, or financial exploitation of
2 an eligible adult maintained in the Registry established
3 under Section 7.5 of the Adult Protective Services Act.

4 (z) Records and information provided to a fatality
5 review team or the Illinois Fatality Review Team Advisory
6 Council under Section 15 of the Adult Protective Services
7 Act.

8 (aa) Information which is exempted from disclosure
9 under Section 2.37 of the Wildlife Code.

10 (bb) Information which is or was prohibited from
11 disclosure by the Juvenile Court Act of 1987.

12 (cc) Recordings made under the Law Enforcement
13 Officer-Worn Body Camera Act, except to the extent
14 authorized under that Act.

15 (dd) Information that is prohibited from being
16 disclosed under Section 45 of the Condominium and Common
17 Interest Community Ombudsperson Act.

18 (ee) Information that is exempted from disclosure
19 under Section 30.1 of the Pharmacy Practice Act.

20 (ff) Information that is exempted from disclosure
21 under the Revised Uniform Unclaimed Property Act.

22 (gg) Information that is prohibited from being
23 disclosed under Section 7-603.5 of the Illinois Vehicle
24 Code.

25 (hh) Records that are exempt from disclosure under
26 Section 1A-16.7 of the Election Code.

1 (ii) Information which is exempted from disclosure
2 under Section 2505-800 of the Department of Revenue Law of
3 the Civil Administrative Code of Illinois.

4 (jj) Information and reports that are required to be
5 submitted to the Department of Labor by registering day
6 and temporary labor service agencies but are exempt from
7 disclosure under subsection (a-1) of Section 45 of the Day
8 and Temporary Labor Services Act.

9 (kk) Information prohibited from disclosure under the
10 Seizure and Forfeiture Reporting Act.

11 (ll) Information the disclosure of which is restricted
12 and exempted under Section 5-30.8 of the Illinois Public
13 Aid Code.

14 (mm) Records that are exempt from disclosure under
15 Section 4.2 of the Crime Victims Compensation Act.

16 (nn) Information that is exempt from disclosure under
17 Section 70 of the Higher Education Student Assistance Act.

18 (oo) Communications, notes, records, and reports
19 arising out of a peer support counseling session
20 prohibited from disclosure under the First Responders
21 Suicide Prevention Act.

22 (pp) Names and all identifying information relating to
23 an employee of an emergency services provider or law
24 enforcement agency under the First Responders Suicide
25 Prevention Act.

26 (qq) Information and records held by the Department of

1 Public Health and its authorized representatives collected
2 under the Reproductive Health Act.

3 (rr) Information that is exempt from disclosure under
4 the Cannabis Regulation and Tax Act.

5 (ss) Data reported by an employer to the Department of
6 Human Rights pursuant to Section 2-108 of the Illinois
7 Human Rights Act.

8 (tt) Recordings made under the Children's Advocacy
9 Center Act, except to the extent authorized under that
10 Act.

11 (uu) Information that is exempt from disclosure under
12 Section 50 of the Sexual Assault Evidence Submission Act.

13 (vv) Information that is exempt from disclosure under
14 subsections (f) and (j) of Section 5-36 of the Illinois
15 Public Aid Code.

16 (ww) Information that is exempt from disclosure under
17 Section 16.8 of the State Treasurer Act.

18 (xx) Information that is exempt from disclosure or
19 information that shall not be made public under the
20 Illinois Insurance Code.

21 (yy) Information prohibited from being disclosed under
22 the Illinois Educational Labor Relations Act.

23 (zz) Information prohibited from being disclosed under
24 the Illinois Public Labor Relations Act.

25 (aaa) Information prohibited from being disclosed
26 under Section 1-167 of the Illinois Pension Code.

1 (bbb) Information that is prohibited from disclosure
2 by the Illinois Police Training Act and the Illinois State
3 Police Act.

4 (ccc) Records exempt from disclosure under Section
5 2605-304 of the Illinois State Police Law of the Civil
6 Administrative Code of Illinois.

7 (ddd) Information prohibited from being disclosed
8 under Section 35 of the Address Confidentiality for
9 Victims of Domestic Violence, Sexual Assault, Human
10 Trafficking, or Stalking Act.

11 (eee) Information prohibited from being disclosed
12 under subsection (b) of Section 75 of the Domestic
13 Violence Fatality Review Act.

14 (fff) Images from cameras under the Expressway Camera
15 Act. This subsection (fff) is inoperative on and after
16 July 1, 2023.

17 (ggg) Information prohibited from disclosure under
18 paragraph (3) of subsection (a) of Section 14 of the Nurse
19 Agency Licensing Act.

20 (hhh) Information submitted to the Illinois Department
21 ~~of~~ State Police in an affidavit or application for an
22 assault weapon endorsement, assault weapon attachment
23 endorsement, .50 caliber rifle endorsement, or .50 caliber
24 cartridge endorsement under the Firearm Owners
25 Identification Card Act.

26 (iii) Information prohibited from being disclosed

1 under subsection (e) of Section 1-129 of the Illinois
2 Power Agency Act.

3 (Source: P.A. 101-13, eff. 6-12-19; 101-27, eff. 6-25-19;
4 101-81, eff. 7-12-19; 101-221, eff. 1-1-20; 101-236, eff.
5 1-1-20; 101-375, eff. 8-16-19; 101-377, eff. 8-16-19; 101-452,
6 eff. 1-1-20; 101-466, eff. 1-1-20; 101-600, eff. 12-6-19;
7 101-620, eff. 12-20-19; 101-649, eff. 7-7-20; 101-652, eff.
8 1-1-22; 101-656, eff. 3-23-21; 102-36, eff. 6-25-21; 102-237,
9 eff. 1-1-22; 102-292, eff. 1-1-22; 102-520, eff. 8-20-21;
10 102-559, eff. 8-20-21; 102-813, eff. 5-13-22; 102-946, eff.
11 7-1-22; 102-1042, eff. 6-3-22; 102-1116, eff. 1-10-23; revised
12 2-13-23.)

13 Section 10. The Illinois Power Agency Act is amended by
14 changing Section 1-75 and adding Section 1-129 as follows:

15 (20 ILCS 3855/1-75)

16 (Text of Section before amendment by P.A. 103-380)

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

20 (a) The Planning and Procurement Bureau shall each year,
21 beginning in 2008, develop procurement plans and conduct
22 competitive procurement processes in accordance with the
23 requirements of Section 16-111.5 of the Public Utilities Act
24 for the eligible retail customers of electric utilities that

1 on December 31, 2005 provided electric service to at least
2 100,000 customers in Illinois. Beginning with the delivery
3 year commencing on June 1, 2017, the Planning and Procurement
4 Bureau shall develop plans and processes for the procurement
5 of zero emission credits from zero emission facilities in
6 accordance with the requirements of subsection (d-5) of this
7 Section. Beginning on the effective date of this amendatory
8 Act of the 102nd General Assembly, the Planning and
9 Procurement Bureau shall develop plans and processes for the
10 procurement of carbon mitigation credits from carbon-free
11 energy resources in accordance with the requirements of
12 subsection (d-10) of this Section. The Planning and
13 Procurement Bureau shall also develop procurement plans and
14 conduct competitive procurement processes in accordance with
15 the requirements of Section 16-111.5 of the Public Utilities
16 Act for the eligible retail customers of small
17 multi-jurisdictional electric utilities that (i) on December
18 31, 2005 served less than 100,000 customers in Illinois and
19 (ii) request a procurement plan for their Illinois
20 jurisdictional load. This Section shall not apply to a small
21 multi-jurisdictional utility until such time as a small
22 multi-jurisdictional utility requests the Agency to prepare a
23 procurement plan for their Illinois jurisdictional load. For
24 the purposes of this Section, the term "eligible retail
25 customers" has the same definition as found in Section
26 16-111.5(a) of the Public Utilities Act.

1 Beginning with the plan or plans to be implemented in the
2 2017 delivery year, the Agency shall no longer include the
3 procurement of renewable energy resources in the annual
4 procurement plans required by this subsection (a), except as
5 provided in subsection (q) of Section 16-111.5 of the Public
6 Utilities Act, and shall instead develop a long-term renewable
7 resources procurement plan in accordance with subsection (c)
8 of this Section and Section 16-111.5 of the Public Utilities
9 Act.

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

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

25 (A) direct previous experience assembling
26 large-scale power supply plans or portfolios for

1 end-use customers;

2 (B) an advanced degree in economics, mathematics,
3 engineering, risk management, or a related area of
4 study;

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

7 (D) expertise in wholesale electricity market
8 rules, including those established by the Federal
9 Energy Regulatory Commission and regional transmission
10 organizations;

11 (E) expertise in credit protocols and familiarity
12 with contract protocols;

13 (F) adequate resources to perform and fulfill the
14 required functions and responsibilities; and

15 (G) the absence of a conflict of interest and
16 inappropriate bias for or against potential bidders or
17 the affected electric utilities.

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

24 (A) direct previous experience administering a
25 large-scale competitive procurement process;

26 (B) an advanced degree in economics, mathematics,

1 engineering, or a related area of study;

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

4 (D) expertise in wholesale electricity market
5 rules, including those established by the Federal
6 Energy Regulatory Commission and regional transmission
7 organizations;

8 (E) expertise in credit and contract protocols;

9 (F) adequate resources to perform and fulfill the
10 required functions and responsibilities; and

11 (G) the absence of a conflict of interest and
12 inappropriate bias for or against potential bidders or
13 the affected electric utilities.

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

1 writing if they object to any experts or expert consulting
2 firms on the lists. Objections shall be based on:

3 (A) failure to satisfy qualification criteria;

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

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

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

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

21 (5) The Agency shall select an expert or expert
22 consulting firm to develop procurement plans based on the
23 proposals submitted and shall award contracts of up to 5
24 years to those selected.

25 (6) The Agency shall select an expert or expert
26 consulting firm, with approval of the Commission, to serve

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

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

22 (c) Renewable portfolio standard.

23 (1) (A) The Agency shall develop a long-term renewable
24 resources procurement plan that shall include procurement
25 programs and competitive procurement events necessary to
26 meet the goals set forth in this subsection (c). The

1 initial long-term renewable resources procurement plan
2 shall be released for comment no later than 160 days after
3 June 1, 2017 (the effective date of Public Act 99-906).
4 The Agency shall review, and may revise on an expedited
5 basis, the long-term renewable resources procurement plan
6 at least every 2 years, which shall be conducted in
7 conjunction with the procurement plan under Section
8 16-111.5 of the Public Utilities Act to the extent
9 practicable to minimize administrative expense. No later
10 than 120 days after the effective date of this amendatory
11 Act of the 102nd General Assembly, the Agency shall
12 release for comment a revision to the long-term renewable
13 resources procurement plan, updating elements of the most
14 recently approved plan as needed to comply with this
15 amendatory Act of the 102nd General Assembly, and any
16 long-term renewable resources procurement plan update
17 published by the Agency but not yet approved by the
18 Illinois Commerce Commission shall be withdrawn. The
19 long-term renewable resources procurement plans shall be
20 subject to review and approval by the Commission under
21 Section 16-111.5 of the Public Utilities Act.

22 (B) Subject to subparagraph (F) of this paragraph (1),
23 the long-term renewable resources procurement plan shall
24 attempt to meet the goals for procurement of renewable
25 energy credits at levels of at least the following overall
26 percentages: 13% by the 2017 delivery year; increasing by

1 at least 1.5% each delivery year thereafter to at least
2 25% by the 2025 delivery year; increasing by at least 3%
3 each delivery year thereafter to at least 40% by the 2030
4 delivery year, and continuing at no less than 40% for each
5 delivery year thereafter. The Agency shall attempt to
6 procure 50% by delivery year 2040. The Agency shall
7 determine the annual increase between delivery year 2030
8 and delivery year 2040, if any, taking into account energy
9 demand, other energy resources, and other public policy
10 goals. In the event of a conflict between these goals and
11 the new wind and new photovoltaic procurement requirements
12 described in items (i) through (iii) of subparagraph (C)
13 of this paragraph (1), the long-term plan shall prioritize
14 compliance with the new wind and new photovoltaic
15 procurement requirements described in items (i) through
16 (iii) of subparagraph (C) of this paragraph (1) over the
17 annual percentage targets described in this subparagraph
18 (B). The Agency shall not comply with the annual
19 percentage targets described in this subparagraph (B) by
20 procuring renewable energy credits that are unlikely to
21 lead to the development of new renewable resources.

22 For the delivery year beginning June 1, 2017, the
23 procurement plan shall attempt to include, subject to the
24 prioritization outlined in this subparagraph (B),
25 cost-effective renewable energy resources equal to at
26 least 13% of each utility's load for eligible retail

1 customers and 13% of the applicable portion of each
2 utility's load for retail customers who are not eligible
3 retail customers, which applicable portion shall equal 50%
4 of the utility's load for retail customers who are not
5 eligible retail customers on February 28, 2017.

6 For the delivery year beginning June 1, 2018, the
7 procurement plan shall attempt to include, subject to the
8 prioritization outlined in this subparagraph (B),
9 cost-effective renewable energy resources equal to at
10 least 14.5% of each utility's load for eligible retail
11 customers and 14.5% of the applicable portion of each
12 utility's load for retail customers who are not eligible
13 retail customers, which applicable portion shall equal 75%
14 of the utility's load for retail customers who are not
15 eligible retail customers on February 28, 2017.

16 For the delivery year beginning June 1, 2019, and for
17 each year thereafter, the procurement plans shall attempt
18 to include, subject to the prioritization outlined in this
19 subparagraph (B), cost-effective renewable energy
20 resources equal to a minimum percentage of each utility's
21 load for all retail customers as follows: 16% by June 1,
22 2019; increasing by 1.5% each year thereafter to 25% by
23 June 1, 2025; and 25% by June 1, 2026; increasing by at
24 least 3% each delivery year thereafter to at least 40% by
25 the 2030 delivery year, and continuing at no less than 40%
26 for each delivery year thereafter. The Agency shall

1 attempt to procure 50% by delivery year 2040. The Agency
2 shall determine the annual increase between delivery year
3 2030 and delivery year 2040, if any, taking into account
4 energy demand, other energy resources, and other public
5 policy goals.

6 For each delivery year, the Agency shall first
7 recognize each utility's obligations for that delivery
8 year under existing contracts. Any renewable energy
9 credits under existing contracts, including renewable
10 energy credits as part of renewable energy resources,
11 shall be used to meet the goals set forth in this
12 subsection (c) for the delivery year.

13 (C) The long-term renewable resources procurement plan
14 described in subparagraph (A) of this paragraph (1) shall
15 include the procurement of renewable energy credits from
16 new projects in amounts equal to at least the following:

17 (i) 10,000,000 renewable energy credits delivered
18 annually by the end of the 2021 delivery year, and
19 increasing ratably to reach 45,000,000 renewable
20 energy credits delivered annually from new wind and
21 solar projects by the end of delivery year 2030 such
22 that the goals in subparagraph (B) of this paragraph
23 (1) are met entirely by procurements of renewable
24 energy credits from new wind and photovoltaic
25 projects. Of that amount, to the extent possible, the
26 Agency shall procure 45% from wind projects and 55%

1 from photovoltaic projects. Of the amount to be
2 procured from photovoltaic projects, the Agency shall
3 procure: at least 50% from solar photovoltaic projects
4 using the program outlined in subparagraph (K) of this
5 paragraph (1) from distributed renewable energy
6 generation devices or community renewable generation
7 projects; at least 47% from utility-scale solar
8 projects; at least 3% from brownfield site
9 photovoltaic projects that are not community renewable
10 generation projects.

11 In developing the long-term renewable resources
12 procurement plan, the Agency shall consider other
13 approaches, in addition to competitive procurements,
14 that can be used to procure renewable energy credits
15 from brownfield site photovoltaic projects and thereby
16 help return blighted or contaminated land to
17 productive use while enhancing public health and the
18 well-being of Illinois residents, including those in
19 environmental justice communities, as defined using
20 existing methodologies and findings used by the Agency
21 and its Administrator in its Illinois Solar for All
22 Program.

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 shall comply with the geographic requirements in
10 subparagraph (I) of this paragraph (1) and shall
11 follow the procurement processes and procedures
12 described in this Section and Section 16-111.5 of the
13 Public Utilities Act to the extent practicable, and
14 these processes and procedures may be expedited to
15 accommodate the schedule established by this
16 subparagraph (G).

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

22 (i) Within 45 days after June 1, 2017 (the
23 effective date of Public Act 99-906), an alternative
24 retail electric supplier or its successor shall submit
25 an informational filing to the Illinois Commerce
26 Commission certifying that, as of December 31, 2015,

1 the alternative retail electric supplier owned one or
2 more electric generating facilities that generates
3 renewable energy resources as defined in Section 1-10
4 of this Act, provided that such facilities are not
5 powered by wind or photovoltaics, and the facilities
6 generate one renewable energy credit for each
7 megawatthour of energy produced from the facility.

8 The informational filing shall identify each
9 facility that was eligible to satisfy the alternative
10 retail electric supplier's obligations under Section
11 16-115D of the Public Utilities Act as described in
12 this item (i).

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

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

1 identify the amount of renewable energy credits to be
2 supplied by the alternative retail electric supplier
3 to the utility's retail customers and the source of
4 the renewable energy credits identified in the
5 informational filing as described in item (i) of this
6 subparagraph (H), subject to the following
7 limitations:

8 For the delivery year beginning June 1, 2018,
9 the maximum amount of renewable energy credits to
10 be supplied by an alternative retail electric
11 supplier under this subparagraph (H) shall be 68%
12 multiplied by 25% multiplied by 14.5% multiplied
13 by the amount of metered electricity
14 (megawatt-hours) delivered by the alternative
15 retail electric supplier to Illinois retail
16 customers during the delivery year ending May 31,
17 2016.

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

1 ending May 31, 2016, provided that the 16% value
2 shall increase by 1.5% each delivery year
3 thereafter to 25% by the delivery year beginning
4 June 1, 2025, and thereafter the 25% value shall
5 apply to each delivery year.

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

19 If the requirements set forth in items (i) through
20 (iii) of this subparagraph (H) are met, the charges
21 that would otherwise be applicable to the retail
22 customers of the alternative retail electric supplier
23 under paragraph (6) of this subsection (c) for the
24 applicable delivery year shall be reduced by the ratio
25 of the quantity of renewable energy credits supplied
26 by the alternative retail electric supplier compared

1 to that supplier's target renewable energy credit
2 quantity. The supplier's target renewable energy
3 credit quantity for the delivery year beginning June
4 1, 2018 is 14.5% multiplied by the total amount of
5 metered electricity (megawatt-hours) delivered by the
6 alternative retail supplier in that delivery year,
7 provided that the 14.5% shall increase by 1.5% each
8 delivery year thereafter to 25% by the delivery year
9 beginning June 1, 2025, and thereafter the 25% value
10 shall apply to each delivery year.

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

16 (I) The Agency shall design its long-term renewable
17 energy procurement plan to maximize the State's interest
18 in the health, safety, and welfare of its residents,
19 including but not limited to minimizing sulfur dioxide,
20 nitrogen oxide, particulate matter and other pollution
21 that adversely affects public health in this State,
22 increasing fuel and resource diversity in this State,
23 enhancing the reliability and resiliency of the
24 electricity distribution system in this State, meeting
25 goals to limit carbon dioxide emissions under federal or
26 State law, and contributing to a cleaner and healthier

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

1 Assembly, was constructed with a project labor agreement;
2 (ii) is capable of transmitting electricity at 525kv;
3 (iii) has an Illinois converter station located and
4 interconnected in the region of the PJM Interconnection,
5 LLC; (iv) does not operate as a public utility; and (v) if
6 the high voltage direct current transmission line was
7 energized after June 1, 2023. To ensure that the public
8 interest criteria are applied to the procurement and given
9 full effect, the Agency's long-term procurement plan shall
10 describe in detail how each public interest factor shall
11 be considered and weighted for facilities located in
12 states adjacent to Illinois.

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

1 contract shall further provide that, in that event, the
2 supplier of the credits must return 110% of all payments
3 received under the contract. Amounts returned under the
4 requirements of this subparagraph (J) shall be retained by
5 the utility and all of these amounts shall be used for the
6 procurement of additional renewable energy credits from
7 new wind or new photovoltaic resources as defined in this
8 subsection (c). The long-term plan shall provide that
9 these renewable energy credits shall be procured in the
10 next procurement event.

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

26 (K) The long-term renewable resources procurement plan

1 developed by the Agency in accordance with subparagraph
2 (A) of this paragraph (1) shall include an Adjustable
3 Block program for the procurement of renewable energy
4 credits from new photovoltaic projects that are
5 distributed renewable energy generation devices or new
6 photovoltaic community renewable generation projects. The
7 Adjustable Block program shall be generally designed to
8 provide for the steady, predictable, and sustainable
9 growth of new solar photovoltaic development in Illinois.
10 To this end, the Adjustable Block program shall provide a
11 transparent annual schedule of prices and quantities to
12 enable the photovoltaic market to scale up and for
13 renewable energy credit prices to adjust at a predictable
14 rate over time. The prices set by the Adjustable Block
15 program can be reflected as a set value or as the product
16 of a formula.

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

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

25 The Adjustable Block program shall include the
26 following categories in at least the following amounts:

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

4 (ii) At least 20% from distributed renewable
5 energy generation devices with a nameplate capacity of
6 more than 25 kilowatts and no more than 5,000
7 kilowatts. The Agency may create sub-categories within
8 this category to account for the differences between
9 projects for small commercial customers, large
10 commercial customers, and public or non-profit
11 customers.

12 (iii) At least 30% from photovoltaic community
13 renewable generation projects. Capacity for this
14 category for the first 2 delivery years after the
15 effective date of this amendatory Act of the 102nd
16 General Assembly shall be allocated to waitlist
17 projects as provided in paragraph (3) of item (iv) of
18 subparagraph (G). Starting in the third delivery year
19 after the effective date of this amendatory Act of the
20 102nd General Assembly or earlier if the Agency
21 determines there is additional capacity needed for to
22 meet previous delivery year requirements, the
23 following shall apply:

24 (1) the Agency shall select projects on a
25 first-come, first-serve basis, however the Agency
26 may suggest additional methods to prioritize

1 projects that are submitted at the same time;

2 (2) projects shall have subscriptions of 25 kW
3 or less for at least 50% of the facility's
4 nameplate capacity and the Agency shall price the
5 renewable energy credits with that as a factor;

6 (3) projects shall not be colocated with one
7 or more other community renewable generation
8 projects, as defined in the Agency's first revised
9 long-term renewable resources procurement plan
10 approved by the Commission on February 18, 2020,
11 such that the aggregate nameplate capacity exceeds
12 5,000 kilowatts; and

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

18 (iv) At least 15% from distributed renewable
19 generation devices or photovoltaic community renewable
20 generation projects installed on at public school land
21 ~~schools~~. The Agency may create subcategories within
22 this category to account for the differences between
23 project size or location. Projects located within
24 environmental justice communities or within
25 Organizational Units that fall within Tier 1 or Tier 2
26 shall be given priority. Each of the Agency's periodic

1 updates to its long-term renewable resources
2 procurement plan to incorporate the procurement
3 described in this subparagraph (iv) shall also include
4 the proposed quantities or blocks, pricing, and
5 contract terms applicable to the procurement as
6 indicated herein. In each such update and procurement,
7 the Agency shall set the renewable energy credit price
8 and establish payment terms for the renewable energy
9 credits procured pursuant to this subparagraph (iv)
10 that make it feasible and affordable for public
11 schools to install photovoltaic distributed renewable
12 energy devices on their premises, including, but not
13 limited to, those public schools subject to the
14 prioritization provisions of this subparagraph. For
15 the purposes of this item (iv):

16 "Environmental Justice Community" shall have the
17 same meaning set forth in the Agency's long-term
18 renewable resources procurement plan;

19 "Organization Unit", "Tier 1" and "Tier 2" shall
20 have the meanings set for in Section 18-8.15 of the
21 School Code;

22 "Public schools" shall have the meaning set forth
23 in Section 1-3 of the School Code and includes public
24 institutions of higher education, as defined in the
25 Board of Higher Education Act.

26 (v) At least 5% from community-driven community

1 solar projects intended to provide more direct and
2 tangible connection and benefits to the communities
3 which they serve or in which they operate and,
4 additionally, to increase the variety of community
5 solar locations, models, and options in Illinois. As
6 part of its long-term renewable resources procurement
7 plan, the Agency shall develop selection criteria for
8 projects participating in this category. Nothing in
9 this Section shall preclude the Agency from creating a
10 selection process that maximizes community ownership
11 and community benefits in selecting projects to
12 receive renewable energy credits. Selection criteria
13 shall include:

14 (1) community ownership or community
15 wealth-building;

16 (2) additional direct and indirect community
17 benefit, beyond project participation as a
18 subscriber, including, but not limited to,
19 economic, environmental, social, cultural, and
20 physical benefits;

21 (3) meaningful involvement in project
22 organization and development by community members
23 or nonprofit organizations or public entities
24 located in or serving the community;

25 (4) engagement in project operations and
26 management by nonprofit organizations, public

1 entities, or community members; and

2 (5) whether a project is developed in response
3 to a site-specific RFP developed by community
4 members or a nonprofit organization or public
5 entity located in or serving the community.

6 Selection criteria may also prioritize projects
7 that:

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

16 (2) increase the diversity of locations of
17 community solar projects in Illinois, including by
18 locating in urban areas and population centers;

19 (3) are located in Equity Investment Eligible
20 Communities;

21 (4) are not greenfield projects;

22 (5) serve only local subscribers;

23 (6) have a nameplate capacity that does not
24 exceed 500 kW;

25 (7) are developed by an equity eligible
26 contractor; or

1 (8) otherwise meaningfully advance the goals
2 of providing more direct and tangible connection
3 and benefits to the communities which they serve
4 or in which they operate and increasing the
5 variety of community solar locations, models, and
6 options in Illinois.

7 For the purposes of this item (v):

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

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

24 "Community ownership" means an arrangement in
25 which an electric generating facility is, or over time
26 will be, in significant part, owned collectively by

1 members of the community to which an electric
2 generating facility provides benefits; members of that
3 community participate in decisions regarding the
4 governance, operation, maintenance, and upgrades of
5 and to that facility; and members of that community
6 benefit from regular use of that facility.

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

17 (vi) At least 10% from distributed renewable
18 energy generation devices, which includes distributed
19 renewable energy devices with a nameplate capacity
20 under 5,000 kilowatts or photovoltaic community
21 renewable generation projects, from applicants that
22 are equity eligible contractors. The Agency may create
23 subcategories within this category to account for the
24 differences between project size and type. The Agency
25 shall propose to increase the percentage in this item
26 (vi) over time to 40% based on factors, including, but

1 not limited to, the number of equity eligible
2 contractors and capacity used in this item (vi) in
3 previous delivery years.

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

22 Contracts developed featuring capital advanced
23 prior to a project's energization shall feature
24 provisions to ensure both the successful development
25 of applicant projects and the delivery of the
26 renewable energy credits for the full term of the

1 contract, including ongoing collateral requirements
2 and other provisions deemed necessary by the Agency,
3 and may include energization timelines longer than for
4 comparable project types. The percentage or amount of
5 capital advanced prior to project energization shall
6 not operate to increase the overall contract value,
7 however contracts executed under this subparagraph may
8 feature renewable energy credit prices higher than
9 those offered to similar projects participating in
10 other categories. Capital advanced prior to
11 energization shall serve to reduce the ratable
12 payments made after energization under items (ii) and
13 (iii) of subparagraph (L) or payments made for each
14 renewable energy credit delivery under item (iv) of
15 subparagraph (L).

16 (vii) The remaining capacity shall be allocated by
17 the Agency in order to respond to market demand. The
18 Agency shall allocate any discretionary capacity prior
19 to the beginning of each delivery year.

20 To the extent there is uncontracted capacity from any
21 block in any of categories (i) through (vi) at the end of a
22 delivery year, the Agency shall redistribute that capacity
23 to one or more other categories giving priority to
24 categories with projects on a waitlist. The redistributed
25 capacity shall be added to the annual capacity in the
26 subsequent delivery year, and the price for renewable

1 energy credits shall be the price for the new delivery
2 year. Redistributed capacity shall not be considered
3 redistributed when determining whether the goals in this
4 subsection (K) have been met.

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

11 The Adjustable Block program shall be designed to
12 ensure that renewable energy credits are procured from
13 projects in diverse locations and are not concentrated in
14 a few regional areas.

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

21 (i) (Blank).

22 (ii) For those renewable energy credits that
23 qualify and are procured under item (i) of
24 subparagraph (K) of this paragraph (1), and any
25 similar category projects that are procured under item
26 (vi) of subparagraph (K) of this paragraph (1) that

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

16 (iii) For those renewable energy credits that
17 qualify and are procured under item (ii) and (v) of
18 subparagraph (K) of this paragraph (1) and any like
19 projects similar category that qualify and are
20 procured under item (vi), the contract length shall be
21 15 years. 15% of the renewable energy credit delivery
22 contract value, based on the estimated generation
23 during the first 15 years of operation, shall be paid
24 by the contracting utilities at the time that the
25 facility producing the renewable energy credits is
26 interconnected at the distribution system level of the

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

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

1 credits, if any, is less than the estimated annual
2 generation amount, payments during such delivery year
3 will not exceed the quantity generated plus the
4 quantity carried forward multiplied by the contract
5 price. The electric utility shall receive all
6 renewable energy credits generated by the project
7 during the first 20 years of operation and retire all
8 renewable energy credits paid for under this item (iv)
9 and return at the end of the delivery term all
10 renewable energy credits that were not paid for.
11 Renewable energy credits generated by the project
12 thereafter shall not be transferred under the
13 renewable energy credit delivery contract with the
14 counterparty electric utility. Notwithstanding the
15 preceding, for those projects participating under item
16 (iii) of subparagraph (K), the contract price for a
17 delivery year shall be based on subscription levels as
18 measured on the higher of the first business day of the
19 delivery year or the first business day 6 months after
20 the first business day of the delivery year.
21 Subscription of 90% of nameplate capacity or greater
22 shall be deemed to be fully subscribed for the
23 purposes of this item (iv). For projects receiving a
24 20-year delivery contract, REC prices shall be
25 adjusted downward for consistency with the incentive
26 levels previously determined to be necessary to

1 support projects under 15-year delivery contracts,
2 taking into consideration any additional new
3 requirements placed on the projects, including, but
4 not limited to, labor standards.

5 (v) Each contract shall include provisions to
6 ensure the delivery of the estimated quantity of
7 renewable energy credits and ongoing collateral
8 requirements and other provisions deemed appropriate
9 by the Agency.

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

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

24 (viii) Nothing in this Section shall require the
25 utility to advance any payment or pay any amounts that
26 exceed the actual amount of revenues anticipated to be

1 collected by the utility under paragraph (6) of this
2 subsection (c) and subsection (k) of Section 16-108 of
3 the Public Utilities Act inclusive of eligible funds
4 collected in prior years and alternative compliance
5 payments for use by the utility, and contracts
6 executed under this Section shall expressly
7 incorporate this limitation.

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

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

21 (M) The Agency shall be authorized to retain one or
22 more experts or expert consulting firms to develop,
23 administer, implement, operate, and evaluate the
24 Adjustable Block program described in subparagraph (K) of
25 this paragraph (1), and the Agency shall retain the
26 consultant or consultants in the same manner, to the

1 extent practicable, as the Agency retains others to
2 administer provisions of this Act, including, but not
3 limited to, the procurement administrator. The selection
4 of experts and expert consulting firms and the procurement
5 process described in this subparagraph (M) are exempt from
6 the requirements of Section 20-10 of the Illinois
7 Procurement Code, under Section 20-10 of that Code. The
8 Agency shall strive to minimize administrative expenses in
9 the implementation of the Adjustable Block program.

10 The Program Administrator may charge application fees
11 to participating firms to cover the cost of program
12 administration. Any application fee amounts shall
13 initially be determined through the long-term renewable
14 resources procurement plan, and modifications to any
15 application fee that deviate more than 25% from the
16 Commission's approved value must be approved by the
17 Commission as a long-term plan revision under Section
18 16-111.5 of the Public Utilities Act. The Agency shall
19 consider stakeholder feedback when making adjustments to
20 application fees and shall notify stakeholders in advance
21 of any planned changes.

22 In addition to covering the costs of program
23 administration, the Agency, in conjunction with its
24 Program Administrator, may also use the proceeds of such
25 fees charged to participating firms to support public
26 education and ongoing regional and national coordination

1 with nonprofit organizations, public bodies, and others
2 engaged in the implementation of renewable energy
3 incentive programs or similar initiatives. This work may
4 include developing papers and reports, hosting regional
5 and national conferences, and other work deemed necessary
6 by the Agency to position the State of Illinois as a
7 national leader in renewable energy incentive program
8 development and administration.

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

1 changes.

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

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

26 (ii) The Agency shall establish program

1 requirements and minimum contract terms to ensure
2 projects are properly installed and produce their
3 expected amounts of energy. Program requirements may
4 include on-site inspections and photo documentation of
5 projects under construction. The Agency may require
6 repairs, alterations, or additions to remedy any
7 material deficiencies discovered. Vendors who have a
8 disproportionately high number of deficient systems
9 may lose their eligibility to continue to receive
10 State-administered incentive funding through Agency
11 programs and procurements.

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

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

1 redacted from public entries.

2 (v) Through a filing in the proceeding for the
3 approval of its long-term renewable energy resources
4 procurement plan, the Agency shall provide an annual
5 written report to the Illinois Commerce Commission
6 documenting the frequency and nature of complaints and
7 any enforcement actions taken in response to those
8 complaints.

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

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

22 (N) The Agency shall establish the terms, conditions,
23 and program requirements for photovoltaic community
24 renewable generation projects with a goal to expand access
25 to a broader group of energy consumers, to ensure robust
26 participation opportunities for residential and small

1 commercial customers and those who cannot install
2 renewable energy on their own properties. Subject to
3 reasonable limitations, any plan approved by the
4 Commission shall allow subscriptions to community
5 renewable generation projects to be portable and
6 transferable. For purposes of this subparagraph (N),
7 "portable" means that subscriptions may be retained by the
8 subscriber even if the subscriber relocates or changes its
9 address within the same utility service territory; and
10 "transferable" means that a subscriber may assign or sell
11 subscriptions to another person within the same utility
12 service territory.

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

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

24 The Agency shall purchase renewable energy credits
25 from subscribed shares of photovoltaic community renewable
26 generation projects through the Adjustable Block program

1 described in subparagraph (K) of this paragraph (1) or
2 through the Illinois Solar for All Program described in
3 Section 1-56 of this Act. The electric utility shall
4 purchase any unsubscribed energy from community renewable
5 generation projects that are Qualifying Facilities ("QF")
6 under the electric utility's tariff for purchasing the
7 output from QFs under Public Utilities Regulatory Policies
8 Act of 1978.

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

18 (O) For the delivery year beginning June 1, 2018, the
19 long-term renewable resources procurement plan required by
20 this subsection (c) shall provide for the Agency to
21 procure contracts to continue offering the Illinois Solar
22 for All Program described in subsection (b) of Section
23 1-56 of this Act, and the contracts approved by the
24 Commission shall be executed by the utilities that are
25 subject to this subsection (c). The long-term renewable
26 resources procurement plan shall allocate up to

1 \$50,000,000 per delivery year to fund the programs, and
2 the plan shall determine the amount of funding to be
3 apportioned to the programs identified in subsection (b)
4 of Section 1-56 of this Act; provided that for the
5 delivery years beginning June 1, 2021, June 1, 2022, and
6 June 1, 2023, the long-term renewable resources
7 procurement plan may average the annual budgets over a
8 3-year period to account for program ramp-up. For the
9 delivery years beginning June 1, 2021, June 1, 2024, June
10 1, 2027, and June 1, 2030 and additional \$10,000,000 shall
11 be provided to the Department of Commerce and Economic
12 Opportunity to implement the workforce development
13 programs and reporting as outlined in Section 16-108.12 of
14 the Public Utilities Act. In making the determinations
15 required under this subparagraph (O), the Commission shall
16 consider the experience and performance under the programs
17 and any evaluation reports. The Commission shall also
18 provide for an independent evaluation of those programs on
19 a periodic basis that are funded under this subparagraph
20 (O).

21 (P) All programs and procurements under this
22 subsection (c) shall be designed to encourage
23 participating projects to use a diverse and equitable
24 workforce and a diverse set of contractors, including
25 minority-owned businesses, disadvantaged businesses,
26 trade unions, graduates of any workforce training programs

1 administered under this Act, and small businesses.

2 The Agency shall develop a method to optimize
3 procurement of renewable energy credits from proposed
4 utility-scale projects that are located in communities
5 eligible to receive Energy Transition Community Grants
6 pursuant to Section 10-20 of the Energy Community
7 Reinvestment Act. If this requirement conflicts with other
8 provisions of law or the Agency determines that full
9 compliance with the requirements of this subparagraph (P)
10 would be unreasonably costly or administratively
11 impractical, the Agency is to propose alternative
12 approaches to achieve development of renewable energy
13 resources in communities eligible to receive Energy
14 Transition Community Grants pursuant to Section 10-20 of
15 the Energy Community Reinvestment Act or seek an exemption
16 from this requirement from the Commission.

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

24 (1) Each facility shall be subject to the
25 prevailing wage requirements included in the
26 Prevailing Wage Act. The Agency shall require

1 verification that all construction performed on the
2 facility by the renewable energy credit delivery
3 contract holder, its contractors, or its
4 subcontractors relating to construction of the
5 facility is performed by construction employees
6 receiving an amount for that work equal to or greater
7 than the general prevailing rate, as that term is
8 defined in Section 3 of the Prevailing Wage Act. For
9 purposes of this item (1), "house of worship" means
10 property that is both (1) used exclusively by a
11 religious society or body of persons as a place for
12 religious exercise or religious worship and (2)
13 recognized as exempt from taxation pursuant to Section
14 15-40 of the Property Tax Code. This item (1) shall
15 apply to any the following:

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

17 (ii) all new utility-scale photovoltaic
18 projects;

19 (iii) all new brownfield photovoltaic
20 projects;

21 (iv) all new photovoltaic community renewable
22 energy facilities that qualify for item (iii) of
23 subparagraph (K) of this paragraph (1);

24 (v) all new community driven community
25 photovoltaic projects that qualify for item (v) of
26 subparagraph (K) of this paragraph (1);

1 (vi) all new photovoltaic projects on public
2 school land ~~distributed renewable energy~~
3 ~~generation devices on schools~~ that qualify for
4 item (iv) of subparagraph (K) of this paragraph
5 (1);

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

14 (viii) all new photovoltaic distributed
15 renewable energy generation devices that (1)
16 qualify for item (ii) of subparagraph (K) of this
17 paragraph (1); (2) are not projects that serve
18 single-family or multi-family residential
19 buildings; and (3) are not houses of worship where
20 the aggregate capacity including collocated
21 projects would not exceed 100 kilowatts.

22 (2) Renewable energy credits procured from new
23 utility-scale wind projects, new utility-scale solar
24 projects, and new brownfield solar projects pursuant
25 to Agency procurement events occurring after the
26 effective date of this amendatory Act of the 102nd

1 General Assembly must be from facilities built by
2 general contractors that must enter into a project
3 labor agreement, as defined by this Act, prior to
4 construction. The project labor agreement shall be
5 filed with the Director in accordance with procedures
6 established by the Agency through its long-term
7 renewable resources procurement plan. Any information
8 submitted to the Agency in this item (2) shall be
9 considered commercially sensitive information. At a
10 minimum, the project labor agreement must provide the
11 names, addresses, and occupations of the owner of the
12 plant and the individuals representing the labor
13 organization employees participating in the project
14 labor agreement consistent with the Project Labor
15 Agreements Act. The agreement must also specify the
16 terms and conditions as defined by this Act.

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

1 program, and shall take such costs into consideration
2 in a nondiscriminatory manner when comparing bids for
3 competitive procurements. The Agency shall consider
4 costs associated with compliance whether in the
5 development, financing, or construction of projects.
6 The Agency shall periodically review the assumptions
7 in these costs and may adjust prices, in compliance
8 with subparagraph (M) of this paragraph (1).

9 (R) In its long-term renewable resources procurement
10 plan, the Agency shall establish a self-direct renewable
11 portfolio standard compliance program for eligible
12 self-direct customers that purchase renewable energy
13 credits from utility-scale wind and solar projects through
14 long-term agreements for purchase of renewable energy
15 credits as described in this Section. Such long-term
16 agreements may include the purchase of energy or other
17 products on a physical or financial basis and may involve
18 an alternative retail electric supplier as defined in
19 Section 16-102 of the Public Utilities Act. This program
20 shall take effect in the delivery year commencing June 1,
21 2023.

22 (1) For the purposes of this subparagraph:

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

1 kilowatts, or any retail customers of an electric
2 utility that serves less than 3,000,000 retail
3 customers but more than 500,000 retail customers in
4 the State and whose total highest 15-minute demand was
5 more than 10,000 kilowatts.

6 "Retail customer" has the meaning set forth in
7 Section 16-102 of the Public Utilities Act and
8 multiple retail customer accounts under the same
9 corporate parent may aggregate their account demands
10 to meet the 10,000 kilowatt threshold. The criteria
11 for determining whether this subparagraph is
12 applicable to a retail customer shall be based on the
13 12 consecutive billing periods prior to the start of
14 the year in which the application is filed.

15 (2) For renewable energy credits to count toward
16 the self-direct renewable portfolio standard
17 compliance program, they must:

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

20 (ii) be sourced from one or more renewable
21 energy generating facilities that comply with the
22 geographic requirements as set forth in
23 subparagraph (I) of paragraph (1) of subsection
24 (c) as interpreted through the Agency's long-term
25 renewable resources procurement plan, or, where
26 applicable, the geographic requirements that

1 governed utility-scale renewable energy credits at
2 the time the eligible self-direct customer entered
3 into the applicable renewable energy credit
4 purchase agreement;

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

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

19 (v) be retired by or on behalf of the large
20 energy customer;

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

23 (vii) if the contracts for renewable energy
24 credits are entered into after the effective date
25 of this amendatory Act of the 102nd General
26 Assembly, the new utility-scale wind projects or

1 new utility-scale solar projects must comply with
2 the requirements established in subparagraphs (P)
3 and (Q) of paragraph (1) of this subsection (c)
4 and subsection (c-10).

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

1 reduce the total volume of renewable energy credits
2 the Agency is otherwise required to procure from new
3 utility-scale projects pursuant to subparagraph (C) of
4 paragraph (1) of this subsection (c) on behalf of
5 contracting utilities where the eligible self-direct
6 customer is located. The self-direct customer shall
7 file an annual compliance report with the Agency
8 pursuant to terms established by the Agency through
9 its long-term renewable resources procurement plan to
10 be eligible for participation in this program.
11 Customers must provide the Agency with their most
12 recent electricity billing statements or other
13 information deemed necessary by the Agency to
14 demonstrate they are an eligible self-direct customer.

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

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

23 (5) Customers described in this subparagraph (R)
24 shall apply, on a form developed by the Agency, to the
25 Agency to be designated as a self-direct eligible
26 customer. Once the Agency determines that a

1 self-direct customer is eligible for participation in
2 the program, the self-direct customer will remain
3 eligible until the end of the term of the contract.
4 Thereafter, application may be made not less than 12
5 months before the filing date of the long-term
6 renewable resources procurement plan described in this
7 Act. At a minimum, such application shall contain the
8 following:

9 (i) the customer's certification that, at the
10 time of the customer's application, the customer
11 qualifies to be a self-direct eligible customer,
12 including documents demonstrating that
13 qualification;

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

20 (iii) certification that the contract or
21 contracts for new renewable energy resources are
22 long-term contracts with term lengths of at least
23 10 years, including supporting documentation;

24 (iv) certification of the quantities of
25 renewable energy credits that the customer will
26 purchase each year under such contract or

1 contracts, including supporting documentation;

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

7 (vi) certification that the customer intends
8 to maintain the contract for the duration of the
9 length of the contract.

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

24 (2) (Blank).

25 (3) (Blank).

26 (4) The electric utility shall retire all renewable

1 energy credits used to comply with the standard.

2 (5) Beginning with the 2010 delivery year and ending
3 June 1, 2017, an electric utility subject to this
4 subsection (c) shall apply the lesser of the maximum
5 alternative compliance payment rate or the most recent
6 estimated alternative compliance payment rate for its
7 service territory for the corresponding compliance period,
8 established pursuant to subsection (d) of Section 16-115D
9 of the Public Utilities Act to its retail customers that
10 take service pursuant to the electric utility's hourly
11 pricing tariff or tariffs. The electric utility shall
12 retain all amounts collected as a result of the
13 application of the alternative compliance payment rate or
14 rates to such customers, and, beginning in 2011, the
15 utility shall include in the information provided under
16 item (1) of subsection (d) of Section 16-111.5 of the
17 Public Utilities Act the amounts collected under the
18 alternative compliance payment rate or rates for the prior
19 year ending May 31. Notwithstanding any limitation on the
20 procurement of renewable energy resources imposed by item
21 (2) of this subsection (c), the Agency shall increase its
22 spending on the purchase of renewable energy resources to
23 be procured by the electric utility for the next plan year
24 by an amount equal to the amounts collected by the utility
25 under the alternative compliance payment rate or rates in
26 the prior year ending May 31.

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

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

19 In meeting the renewable energy requirements of this
20 subsection (c), to the extent feasible and consistent with
21 State and federal law, the renewable energy credit
22 procurements, Adjustable Block solar program, and
23 community renewable generation program shall provide
24 employment opportunities for all segments of the
25 population and workforce, including minority-owned and
26 female-owned business enterprises, and shall not,

1 consistent with State and federal law, discriminate based
2 on race or socioeconomic status.

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

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

1 are otherwise shortfalls in compliance with such
2 requirements. The procurement of renewable energy credits
3 by electric utilities pursuant to this subsection (c-5)
4 shall be funded solely by revenues collected from the Coal
5 to Solar and Energy Storage Initiative Charge provided for
6 in this subsection (c-5) and subsection (i-5) of Section
7 16-108 of the Public Utilities Act, shall not be funded by
8 revenues collected through any of the other funding
9 mechanisms provided for in subsection (c) of this Section,
10 and shall not be subject to the limitation imposed by
11 subsection (c) on charges to retail customers for costs to
12 procure renewable energy resources pursuant to subsection
13 (c), and shall not be subject to any other requirements or
14 limitations of subsection (c).

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

1 eligibility criteria specified in this subsection (c-5).
2 The second procurement event shall be conducted no sooner
3 than September 30, 2022 and no later than October 31, 2022
4 and shall be to select owners of electric generating
5 facilities located anywhere in this State that meet the
6 eligibility criteria specified in this subsection (c-5).
7 The Agency shall establish and announce a time period,
8 which shall begin no later than 30 days prior to the
9 scheduled date for the procurement event, during which
10 applicants may submit applications to be selected as
11 suppliers of renewable energy credits pursuant to this
12 subsection (c-5). The eligibility criteria for selection
13 as a supplier of renewable energy credits pursuant to this
14 subsection (c-5) shall be as follows:

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

24 (B) The applicant is not (i) an electric
25 cooperative as defined in Section 3-119 of the Public
26 Utilities Act, or (ii) an entity described in

1 subsection (b)(1) of Section 3-105 of the Public
2 Utilities Act, or an association or consortium of or
3 an entity owned by entities described in (i) or (ii);
4 and the coal-fueled electric generating facility was
5 at one time owned, in whole or in part, by a public
6 utility as defined in Section 3-105 of the Public
7 Utilities Act.

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

1 storage facility having a storage capacity equal to at
2 least 0.5 megawatts and at most one megawatt.

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

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

23 (F) The applicant commits that not less than the
24 prevailing wage, as determined pursuant to the
25 Prevailing Wage Act, will be paid to the applicant's
26 employees engaged in construction activities

1 associated with the new renewable energy facility and
2 the new energy storage facility and to the employees
3 of applicant's contractors engaged in construction
4 activities associated with the new renewable energy
5 facility and the new energy storage facility, and
6 that, on or before the commercial operation date of
7 the new renewable energy facility, the applicant shall
8 file a report with the Agency certifying that the
9 requirements of this subparagraph (F) have been met.

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

21 (H) The applicant commits to enter into a contract
22 or contracts for the applicable duration to provide
23 specified numbers of renewable energy credits each
24 year from the new renewable energy facility to
25 electric utilities that served more than 300,000
26 retail customers in this State as of January 1, 2019,

1 at a price of \$30 per renewable energy credit. The
2 price per renewable energy credit shall be fixed at
3 \$30 for the applicable duration and the renewable
4 energy credits shall not be indexed renewable energy
5 credits as provided for in item (v) of subparagraph
6 (G) of paragraph (1) of subsection (c) of Section 1-75
7 of this Act. The applicable duration of each contract
8 shall be 20 years, unless the applicant is physically
9 interconnected to the PJM Interconnection, LLC
10 transmission grid and had a generating capacity of at
11 least 1,200 megawatts as of January 1, 2021, in which
12 case the applicable duration of the contract shall be
13 15 years.

14 (I) The applicant's application is certified by an
15 officer of the applicant and by an officer of the
16 applicant's ultimate parent company, if any.

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

1 (4) The Agency shall assess fees to each applicant to
2 recover the Agency's costs incurred in receiving and
3 evaluating applications, conducting the procurement event,
4 developing contracts for sale, delivery and purchase of
5 renewable energy credits, and monitoring the
6 administration of such contracts, as provided for in this
7 subsection (c-5), including fees paid to a procurement
8 administrator retained by the Agency for one or more of
9 these purposes.

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

1 renewable energy credits per year less the amount of
2 renewable energy credits each year contracted for as a
3 result of the first procurement event, for the applicable
4 durations. The number of renewable energy credits to be
5 procured as specified in this paragraph (5) shall not be
6 reduced based on renewable energy credits procured in the
7 self-direct renewable energy credit compliance program
8 established pursuant to subparagraph (R) of paragraph (1)
9 of subsection (c) of Section 1-75.

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

1 by the applicant from the new renewable energy facility.

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

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

1 Each contract resulting from the second procurement event
2 shall provide for a commercial operation date on June 1
3 next occurring up to 48 months after execution of the
4 contract. Each contract shall provide that the owner shall
5 receive payments for renewable energy credits for the
6 applicable durations beginning with the commercial
7 operation date of the new renewable energy facility. The
8 form contract shall provide for adjustments to the
9 commercial operation and payment start dates as needed due
10 to any delays in completing the procurement and
11 contracting processes, in finalizing interconnection
12 agreements and installing interconnection facilities, and
13 in obtaining other necessary governmental permits and
14 approvals. The form contract shall be, to the maximum
15 extent possible, consistent with standard electric
16 industry contracts for sale, delivery, and purchase of
17 renewable energy credits while taking into account the
18 specific requirements of this subsection (c-5). The form
19 contract shall provide for over-delivery and
20 under-delivery of renewable energy credits within
21 reasonable ranges during each 12-month period and penalty,
22 default, and enforcement provisions for failure of the
23 selling party to deliver renewable energy credits as
24 specified in the contract and to comply with the
25 requirements of this subsection (c-5). The standard form
26 contract shall specify that all renewable energy credits

1 delivered to the electric utility pursuant to the contract
2 shall be retired. The Agency shall make the proposed
3 contracts available for a reasonable period for comment by
4 potential applicants, and shall publish the final form
5 contract at least 30 days before the date of the first
6 procurement event.

7 (9) Coal to Solar and Energy Storage Initiative
8 Charge.

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

1 facilities, and (ii) to fund the grant payments to be
2 made in each delivery year by the Department of
3 Commerce and Economic Opportunity, or any successor
4 department or agency, which shall be referred to in
5 this subsection (c-5) as the Department, pursuant to
6 paragraph (10) of this subsection (c-5). The electric
7 utility's tariff shall provide for the billing and
8 collection of the Coal to Solar and Energy Storage
9 Initiative Charge on each kilowatthour of electricity
10 delivered to its delivery services customers within
11 its service territory and shall provide for an annual
12 reconciliation of revenues collected with actual
13 costs, in accordance with subsection (i-5) of Section
14 16-108 of the Public Utilities Act.

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

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

25 (A) The Coal to Solar and Energy Storage
26 Initiative Fund is established as a special fund in

1 the State treasury. The Coal to Solar and Energy
2 Storage Initiative Fund is authorized to receive, by
3 statutory deposit, that portion specified in item (B)
4 of paragraph (9) of this subsection (c-5) of moneys
5 collected by electric utilities through imposition of
6 the Coal to Solar and Energy Storage Initiative Charge
7 required by this subsection (c-5). The Coal to Solar
8 and Energy Storage Initiative Fund shall be
9 administered by the Department to provide grants to
10 support the installation and operation of energy
11 storage facilities at the sites of qualifying electric
12 generating facilities meeting the criteria specified
13 in this paragraph (10).

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

24 (C) The Department shall utilize up to
25 \$280,500,000 in the Coal to Solar and Energy Storage
26 Initiative Fund for grants, assuming sufficient

1 qualifying applicants, to support installation of
2 energy storage facilities at the sites of up to 3
3 qualifying electric generating facilities located in
4 the Midcontinent Independent System Operator, Inc.,
5 region in Illinois and the sites of up to 2 qualifying
6 electric generating facilities located in the PJM
7 Interconnection, LLC region in Illinois that meet the
8 criteria set forth in this subparagraph (C). The
9 criteria for receipt of a grant pursuant to this
10 subparagraph (C) are as follows:

11 (1) the electric generating facility at the
12 site has, or had prior to retirement, an electric
13 generating capacity of at least 150 megawatts;

14 (2) the electric generating facility burns (or
15 burned prior to retirement) coal as its primary
16 source of fuel;

17 (3) if the electric generating facility is
18 retired, it was retired subsequent to January 1,
19 2016;

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

1 electric generating facility is located;

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

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

14 (7) the proposed energy storage facility at
15 the site will have energy storage capacity of at
16 least 37 megawatts;

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

26 (9) the owner agrees that the new energy

1 storage facility will be constructed or installed
2 by a qualified entity or entities consistent with
3 the requirements of subsection (g) of Section
4 16-128A of the Public Utilities Act and any rules
5 adopted under that Section;

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

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

1 the new energy storage facility, and that, on or
2 before the commercial operation date of the new
3 energy storage facility, the owner shall file a
4 report with the Department certifying that the
5 requirements of this subparagraph (11) have been
6 met; and

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

18 The Department shall accept applications for this
19 grant program until March 31, 2022 and shall announce
20 the award of grants no later than June 1, 2022. The
21 Department shall make the grant payments to a
22 recipient in equal annual amounts for 10 years
23 following the date the energy storage facility is
24 placed into commercial operation. The annual grant
25 payments to a qualifying energy storage facility shall
26 be \$110,000 per megawatt of energy storage capacity,

1 with total annual grant payments pursuant to this
2 subparagraph (C) for qualifying energy storage
3 facilities not to exceed \$28,050,000 in any year.

4 (D) Grants of funding for energy storage
5 facilities pursuant to subparagraph (C) of this
6 paragraph (10), from the Coal to Solar and Energy
7 Storage Initiative Fund, shall be memorialized in
8 grant contracts between the Department and the
9 recipient. The grant contracts shall specify the date
10 or dates in each year on which the annual grant
11 payments shall be paid.

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

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

24 (A) Each applicant selected in a procurement event
25 to contract to supply renewable energy credits in
26 accordance with this subsection (c-5) and each owner

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

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

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

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

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

21 (D) The applicant or owner may submit a revised or
22 updated plan to the Commission from time to time as
23 circumstances warrant. The applicant or owner shall
24 file annual reports with the Commission detailing the
25 applicant's or owner's progress in implementing its
26 plan and achieving its goals and any modifications the

1 applicant or owner has made to its plan to better
2 achieve its diversity, equity and inclusion goals. The
3 applicant or owner shall file a final report on the
4 fifth June 1 following the commercial operation date
5 of the new renewable energy resource or new energy
6 storage facility, but the applicant or owner shall
7 thereafter continue to be subject to applicable
8 reporting requirements of Section 5-117 of the Public
9 Utilities Act.

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

1 disproportionate levels of pollution, and have
2 disproportionately experienced negative public health
3 outcomes.

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

1 increases, the Agency shall have the discretion to
2 establish different minimum equity standards for different
3 types of procurements and different regions of the State
4 if the Agency finds that doing so will further the
5 purposes of this subsection (c-10). The proposed schedule
6 of annual increases shall be revisited and updated on an
7 annual basis. Revisions shall be developed with
8 stakeholder input, including from equity eligible persons,
9 equity eligible contractors, clean energy industry
10 representatives, and community-based organizations that
11 work with such persons and contractors.

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

22 (B) Halfway through each delivery year, the Agency
23 shall require each entity participating in a
24 procurement program to confirm that it will achieve
25 compliance in that delivery year, when applicable. The
26 Agency may offer corrective action plans to entities

1 that are not on track to achieve compliance.

2 (C) At the end of each delivery year, each entity
3 participating and completing work in that delivery
4 year in a procurement program of subsection (c) shall
5 submit a report to the Agency that demonstrates how it
6 achieved compliance with the minimum equity standards
7 percentage for that delivery year.

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

23 (E) The Agency shall pursue efficiencies achieved
24 by combining with other approved vendor or designee
25 reporting.

26 (2) Equity accountability system within the Adjustable

1 Block program. The equity category described in item (vi)
2 of subparagraph (K) of subsection (c) is only available to
3 applicants that are equity eligible contractors.

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

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

4 (A) The current status and number of equity
5 eligible contractors listed in the Energy Workforce
6 Equity Database designed in subsection (c-25),
7 including the number of equity eligible contractors
8 with current certifications as issued by the Agency.

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

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

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

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

1 recommendations to target recruitment to add such
2 eligible persons or eligible contractors to the
3 database.

4 (5) The Agency shall collect information about work on
5 projects or portfolios of projects subject to these
6 minimum equity standards to ensure compliance with this
7 subsection (c-10). Reporting in furtherance of this
8 requirement may be combined with other annual reporting
9 requirements. Such reporting shall include proof of
10 certification of each equity eligible contractor or equity
11 eligible person during the applicable time period.

12 (6) The Agency shall keep confidential all information
13 and communication that provides private or personal
14 information.

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

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

17 (c-15) Racial discrimination elimination powers and
18 process.

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

26 (2) Racial disparity and discrimination review

1 process.

2 (A) Within one year after awarding contracts using
3 the equity actions processes established in this
4 Section, the Agency shall publish a report evaluating
5 the effectiveness of the equity actions point criteria
6 of this Section in increasing participation of equity
7 eligible persons and equity eligible contractors. The
8 report shall disaggregate participating workers and
9 contractors by race and ethnicity. The report shall be
10 forwarded to the Governor, the General Assembly, and
11 the Illinois Commerce Commission and be made available
12 to the public.

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

1 General Assembly, and the Illinois Commerce
2 Commission. If the disparity and availability study
3 establishes a strong basis in evidence that there is
4 discrimination in Illinois' clean energy economy, the
5 Agency, Department of Commerce and Economic
6 Opportunity, Department of Labor, Department of
7 Corrections, and other appropriate agencies shall take
8 appropriate remedial actions, including race-conscious
9 remedial actions as consistent with State and federal
10 law, to effectively remedy this discrimination. Such
11 remedies may include modification of the equity
12 accountability system as described in subsection
13 (c-10).

14 (c-20) Program data collection.

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

1 (2) Agency collection of program data. The Agency
2 shall collect demographic and geographic data for each
3 entity awarded contracts under any Agency-administered
4 program.

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

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

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

18 (C) any other information the Agency determines is
19 necessary for the purpose of achieving the purpose of
20 this subsection.

21 (4) Publication of collected information. The Agency
22 shall publish, at least annually, information on the
23 demographics of program participants on an aggregate
24 basis.

25 (5) Nothing in this subsection shall be interpreted to
26 limit the authority of the Agency, or other agency or

1 department of the State, to require or collect demographic
2 information from applicants of other State programs.

3 (c-25) Energy Workforce Equity Database.

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

14 (A) publicly accessible;

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

16 (C) organized by company specialty or field;

17 (D) region-specific; and

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

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

1 (A) a map of environmental justice and equity
2 investment eligible communities;

3 (B) job postings and recruiting opportunities;

4 (C) a means by which recruiting clean energy
5 companies can find and interact with current or former
6 participants of clean energy workforce training
7 programs;

8 (D) information on workforce training service
9 providers and training opportunities available to
10 prospective workers;

11 (E) renewable energy company diversity reporting;

12 (F) a list of equity eligible contractors with
13 their contact information, types of work performed,
14 and locations worked in;

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

20 (H) information about the Jobs and Environmental
21 Justice Grant Program, the Clean Energy Jobs and
22 Justice Fund, and other sources of capital.

23 (3) The Agency shall ensure the database is regularly
24 updated to ensure information is current and shall
25 coordinate with the Department of Commerce and Economic
26 Opportunity to ensure that it includes information on

1 individuals and entities that are or have participated in
2 the Clean Jobs Workforce Network Program, Clean Energy
3 Contractor Incubator Program, Returning Residents Clean
4 Jobs Training Program, or Clean Energy Primes Contractor
5 Accelerator Program.

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

21 (d) Clean coal portfolio standard.

22 (1) The procurement plans shall include electricity
23 generated using clean coal. Each utility shall enter into
24 one or more sourcing agreements with the initial clean
25 coal facility, as provided in paragraph (3) of this
26 subsection (d), covering electricity generated by the

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

20 A utility party to a sourcing agreement shall
21 immediately retire any emission credits that it receives
22 in connection with the electricity covered by such
23 agreement.

24 Utilities shall maintain adequate records documenting
25 the purchases under the sourcing agreement to comply with
26 this subsection (d) and shall file an accounting with the

1 load forecast that must be filed with the Agency by July 15
2 of each year, in accordance with subsection (d) of Section
3 16-111.5 of the Public Utilities Act.

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

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

22 Notwithstanding the requirements of this subsection
23 (d), the total amount paid under sourcing agreements with
24 clean coal facilities pursuant to the procurement plan for
25 any given year shall be reduced by an amount necessary to
26 limit the annual estimated average net increase due to the

1 costs of these resources included in the amounts paid by
2 eligible retail customers in connection with electric
3 service to:

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

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

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

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

22 (E) thereafter, the total amount paid under
23 sourcing agreements with clean coal facilities
24 pursuant to the procurement plan for any single year
25 shall be reduced by an amount necessary to limit the
26 estimated average net increase due to the cost of

1 these resources included in the amounts paid by
2 eligible retail customers in connection with electric
3 service to no more than the greater of (i) 2.015% of
4 the amount paid per kilowatthour by those customers
5 during the year ending May 31, 2009 or (ii) the
6 incremental amount per kilowatthour paid for these
7 resources in 2013. These requirements may be altered
8 only as provided by statute.

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

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

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

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

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

26 (ii) provide that all miscellaneous net

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

16 (B) power purchase provisions, which shall:

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

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

24 (iii) require the utility party to such
25 sourcing agreement to buy from the initial clean
26 coal facility in each hour an amount of energy

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

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

22 (C) contract for differences provisions, which
23 shall:

24 (i) require the utility party to such sourcing
25 agreement to contract with the initial clean coal
26 facility in each hour with respect to an amount of

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

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

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

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

15 (D) general provisions, which shall:

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

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

1 (iii) provide that all costs associated with
2 the initial clean coal facility will be
3 periodically reported to the Federal Energy
4 Regulatory Commission and to purchasers in
5 accordance with applicable laws governing
6 cost-based wholesale power contracts;

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

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

1 sequestered at least 50% of the total carbon
2 emissions that the facility would otherwise emit
3 or that sequestration of emissions from prior
4 years has failed, resulting in the release of
5 carbon dioxide into the atmosphere, the owner of
6 the facility must offset excess emissions. Any
7 such carbon offsets must be permanent, additional,
8 verifiable, real, located within the State of
9 Illinois, and legally and practicably enforceable.
10 The cost of such offsets for the facility that are
11 not recoverable shall not exceed \$15 million in
12 any given year. No costs of any such purchases of
13 carbon offsets may be recovered from a utility or
14 its customers. All carbon offsets purchased for
15 this purpose and any carbon emission credits
16 associated with sequestration of carbon from the
17 facility must be permanently retired. The initial
18 clean coal facility shall not forfeit its
19 designation as a clean coal facility if the
20 facility fails to fully comply with the applicable
21 carbon sequestration requirements in any given
22 year, provided the requisite offsets are
23 purchased. However, the Attorney General, on
24 behalf of the People of the State of Illinois, may
25 specifically enforce the facility's sequestration
26 requirement and the other terms of this contract

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

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

18 (vii) require Commission review: (1) to
19 determine the justness, reasonableness, and
20 prudence of the inputs to the formula referenced
21 in subparagraphs (A)(i) through (A)(iii) of
22 paragraph (3) of this subsection (d), prior to an
23 adjustment in those inputs including, without
24 limitation, the capital structure and return on
25 equity, fuel costs, and other operations and
26 maintenance costs and (2) to approve the costs to

1 be passed through to customers under the sourcing
2 agreement by which the utility satisfies its
3 statutory obligations. Commission review shall
4 occur no less than every 3 years, regardless of
5 whether any adjustments have been proposed, and
6 shall be completed within 9 months;

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

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

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

1 (xi) append documentation showing that the
2 formula rate and contract, insofar as they relate
3 to the power purchase provisions, have been
4 approved by the Federal Energy Regulatory
5 Commission pursuant to Section 205 of the Federal
6 Power Act;

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

14 (xiii) conform with customary lender
15 requirements in power purchase agreements used as
16 the basis for financing non-utility generators.

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

22 (i) Facility cost report. The owner of the initial
23 clean coal facility shall submit to the Commission,
24 the Agency, and the General Assembly a front-end
25 engineering and design study, a facility cost report,
26 method of financing (including but not limited to

1 structure and associated costs), and an operating and
2 maintenance cost quote for the facility (collectively
3 "facility cost report"), which shall be prepared in
4 accordance with the requirements of this paragraph (4)
5 of subsection (d) of this Section, and shall provide
6 the Commission and the Agency access to the work
7 papers, relied upon documents, and any other backup
8 documentation related to the facility cost report.

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

1 paid for by the owner of the initial clean coal
2 facility. The Commission and Agency may begin the
3 process of selecting such experts or consultants prior
4 to receipt of the 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 Commission's
8 report, the General Assembly enacts authorizing
9 legislation approving (A) the projected price, stated
10 in cents per kilowatthour, to be charged for
11 electricity generated by the initial clean coal
12 facility, (B) the projected impact on residential and
13 small business customers' bills over the life of the
14 sourcing agreements, and (C) the maximum allowable
15 return on equity for the project; and

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

1 The facility cost report shall be prepared as follows:

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

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

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

1 delivery.

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

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

16 (C) The facility cost report shall also include an
17 operating and maintenance cost quote that will provide
18 the estimated cost of delivered fuel, personnel,
19 maintenance contracts, chemicals, catalysts,
20 consumables, spares, and other fixed and variable
21 operations and maintenance costs. The delivered fuel
22 cost estimate will be provided by a recognized third
23 party expert or experts in the fuel and transportation
24 industries. The balance of the operating and
25 maintenance cost quote, excluding delivered fuel
26 costs, will be developed based on the inputs provided

1 by duly licensed engineering and construction firms
2 performing the construction cost quote, potential
3 vendors under long-term service agreements and plant
4 operating agreements, or recognized third party plant
5 operator or operators.

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

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

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

26 (5) Re-powering and retrofitting coal-fired power

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

1 all books and records associated with these clean coal
2 facilities during the term of any such contract.

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

9 (d-5) Zero emission standard.

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

1 of the portion of power and energy to be procured by the
2 Agency for the utility. The duration of the contracts
3 procured under this subsection (d-5) shall be for a term
4 of 10 years ending May 31, 2027. The quantity of zero
5 emission credits to be procured under the contracts shall
6 be all of the zero emission credits generated by the zero
7 emission facility in each delivery year; however, if the
8 zero emission facility is owned by more than one entity,
9 then the quantity of zero emission credits to be procured
10 under the contracts shall be the amount of zero emission
11 credits that are generated from the portion of the zero
12 emission facility that is owned by the winning supplier.

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

17 The procurement process shall be subject to the
18 following provisions:

19 (A) Those zero emission facilities that intend to
20 participate in the procurement shall submit to the
21 Agency the following eligibility information for each
22 zero emission facility on or before the date
23 established by the Agency:

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

26 (ii) the amount of power generated annually

1 for each of the years 2005 through 2015, and the
2 projected zero emission credits to be generated
3 over the remaining useful life of the zero
4 emission facility, which shall be used to
5 determine the capability of each facility;

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

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

1 procurement.

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

13 (B) The price for each zero emission credit
14 procured under this subsection (d-5) for each delivery
15 year shall be in an amount that equals the Social Cost
16 of Carbon, expressed on a price per megawatthour
17 basis. However, to ensure that the procurement remains
18 affordable to retail customers in this State if
19 electricity prices increase, the price in an
20 applicable delivery year shall be reduced below the
21 Social Cost of Carbon by the amount ("Price
22 Adjustment") by which the market price index for the
23 applicable delivery year exceeds the baseline market
24 price index for the consecutive 12-month period ending
25 May 31, 2016. If the Price Adjustment is greater than
26 or equal to the Social Cost of Carbon in an applicable

1 delivery year, then no payments shall be due in that
2 delivery year. The components of this calculation are
3 defined as follows:

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

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

1 multiplied by the Planning Resource Auction, or
2 its successor, capacity price for Zone 4
3 determined by the Midcontinent Independent System
4 Operator, Inc., divided by 24 hours per day.

5 (iii) Market price index: The market price
6 index for a delivery year shall be the sum of
7 projected energy prices and projected capacity
8 prices determined as follows:

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

24 (bb) Projected capacity prices:

25 (I) For the delivery years commencing
26 June 1, 2017, June 1, 2018, and June 1,

1 2019, the projected capacity price shall
2 be equal to the sum of (1) 50% multiplied
3 by the Base Residual Auction, or its
4 successor, price for the rest of the RTO
5 zone group as determined by PJM
6 Interconnection LLC, divided by 24 hours
7 per day and, (2) 50% multiplied by the
8 resource auction price determined in the
9 resource auction administered by the
10 Midcontinent Independent System Operator,
11 Inc., in which the largest percentage of
12 load cleared for Local Resource Zone 4,
13 divided by 24 hours per day, and where
14 such price is determined by the
15 Midcontinent Independent System Operator,
16 Inc.

17 (II) For the delivery year commencing
18 June 1, 2020, and each year thereafter,
19 the projected capacity price shall be
20 equal to the sum of (1) 50% multiplied by
21 the Base Residual Auction, or its
22 successor, price for the ComEd zone as
23 determined by PJM Interconnection LLC,
24 divided by 24 hours per day, and (2) 50%
25 multiplied by the resource auction price
26 determined in the resource auction

1 administered by the Midcontinent
2 Independent System Operator, Inc., in
3 which the largest percentage of load
4 cleared for Local Resource Zone 4, divided
5 by 24 hours per day, and where such price
6 is determined by the Midcontinent
7 Independent System Operator, Inc.

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

9 "Rest of the RTO" and "ComEd Zone" shall have
10 the meaning ascribed to them by PJM
11 Interconnection, LLC.

12 "RTO" means regional transmission
13 organization.

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

1 benefits resulting from the procurement, such as any
2 existing environmental benefits that are preserved by
3 the procurements held under Public Act 99-906 and
4 would cease to exist if the procurements were not
5 held, including the preservation of zero emission
6 facilities. The plan shall also describe in detail how
7 each public interest factor shall be considered and
8 weighted in the bid selection process to ensure that
9 the public interest criteria are applied to the
10 procurement and given full effect.

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

19 Upon publishing of the zero emission standard
20 procurement plan, copies of the plan shall be posted
21 and made publicly available on the Agency's website.
22 All interested parties shall have 10 days following
23 the date of posting to provide comment to the Agency on
24 the plan. All comments shall be posted to the Agency's
25 website. Following the end of the comment period, but
26 no more than 60 days later than June 1, 2017 (the

1 effective date of Public Act 99-906), the Agency shall
2 revise the plan as necessary based on the comments
3 received and file its zero emission standard
4 procurement plan with the Commission.

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

15 (C-5) As part of the Commission's review and
16 acceptance or rejection of the procurement results,
17 the Commission shall, in its public notice of
18 successful bidders:

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

1 average of the following:

2 (I) the price, or if there is more
3 than one price, the average of the prices,
4 paid for renewable energy credits from new
5 utility-scale wind projects in the
6 procurement events specified in item (i)
7 of subparagraph (G) of paragraph (1) of
8 subsection (c) of this Section; and

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

21 Each utility shall enter into binding contractual
22 arrangements with the winning suppliers.

23 The procurement described in this subsection
24 (d-5), including, but not limited to, the execution of
25 all contracts procured, shall be completed no later
26 than May 10, 2017. Based on the effective date of

1 Public Act 99-906, the Agency and Commission may, as
2 appropriate, modify the various dates and timelines
3 under this subparagraph and subparagraphs (C) and (D)
4 of this paragraph (1). The procurement and plan
5 approval processes required by this subsection (d-5)
6 shall be conducted in conjunction with the procurement
7 and plan approval processes required by subsection (c)
8 of this Section and Section 16-111.5 of the Public
9 Utilities Act, to the extent practicable.
10 Notwithstanding whether a procurement event is
11 conducted under Section 16-111.5 of the Public
12 Utilities Act, the Agency shall immediately initiate a
13 procurement process on June 1, 2017 (the effective
14 date of Public Act 99-906).

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

23 (E) Notwithstanding the requirements of this
24 subsection (d-5), the contracts executed under this
25 subsection (d-5) shall provide that the zero emission
26 facility may, as applicable, suspend or terminate

1 performance under the contracts in the following
2 instances:

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

25 (ii) A zero emission facility shall be
26 permitted to terminate the contract if legislation

1 is enacted into law by the General Assembly that
2 imposes or authorizes a new tax, special
3 assessment, or fee on the generation of
4 electricity, the ownership or leasehold of a
5 generating unit, or the privilege or occupation of
6 such generation, ownership, or leasehold of
7 generation units by a zero emission facility.
8 However, the provisions of this item (ii) do not
9 apply to any generally applicable tax, special
10 assessment or fee, or requirements imposed by
11 federal law.

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

19 (iv) A zero emission facility shall be
20 permitted to terminate the contract in the event
21 the Nuclear Regulatory Commission terminates the
22 resource's license.

23 (F) If the zero emission facility elects to
24 terminate a contract under subparagraph (E) of this
25 paragraph (1), then the Commission shall reopen the
26 docket in which the Commission approved the zero

1 emission standard procurement plan under subparagraph
2 (C) of this paragraph (1) and, after notice and
3 hearing, enter an order acknowledging the contract
4 termination election if such termination is consistent
5 with the provisions of this subsection (d-5).

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

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

1 customers, and all those customers shall pay the same
2 single, uniform cents per kilowatthour charge under
3 subsection (k) of Section 16-108 of the Public Utilities
4 Act. To arrive at a maximum dollar amount of zero emission
5 credits to be paid for the particular delivery year, the
6 resulting per kilowatthour amount shall be applied to the
7 actual amount of kilowatthours of electricity delivered by
8 the electric utility in the delivery year immediately
9 prior to the procurement, to all retail customers in its
10 service territory. Unpaid contractual volume for any
11 delivery year shall be paid in any subsequent delivery
12 year in which such payments can be made without exceeding
13 the amount specified in this paragraph (2). The
14 calculations required by this paragraph (2) shall be made
15 only once for each procurement plan year. Once the
16 determination as to the amount of zero emission credits to
17 be paid is made based on the calculations set forth in this
18 paragraph (2), no subsequent rate impact determinations
19 shall be made and no adjustments to those contract amounts
20 shall be allowed. All costs incurred under those contracts
21 and in implementing this subsection (d-5) shall be
22 recovered by the electric utility as provided in this
23 Section.

24 No later than June 30, 2019, the Commission shall
25 review the limitation on the amount of zero emission
26 credits procured under this subsection (d-5) and report to

1 the General Assembly its findings as to whether that
2 limitation unduly constrains the procurement of
3 cost-effective zero emission credits.

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

1 facility under its contract.

2 For purposes of this Section, the Average ZEC Payment
3 shall be calculated by multiplying the quantity of zero
4 emission credits delivered under the contract times the
5 average contract price. The average contract price shall
6 be determined by subtracting the amount calculated under
7 subparagraph (B) of this paragraph (3) from the amount
8 calculated under subparagraph (A) of this paragraph (3),
9 as follows:

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

13 (B) The average of the market price indices, as
14 defined in subparagraph (B) of paragraph (1) of this
15 subsection (d-5), during the term of the contract,
16 minus the baseline market price index, as defined in
17 subparagraph (B) of paragraph (1) of this subsection
18 (d-5).

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

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

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

1 (6) Electric utilities shall be entitled to recover
2 all of the costs associated with the procurement of zero
3 emission credits through an automatic adjustment clause
4 tariff in accordance with subsection (k) and (m) of
5 Section 16-108 of the Public Utilities Act, and the
6 contracts executed under this subsection (d-5) shall
7 provide that the utilities' payment obligations under such
8 contracts shall be reduced if an adjustment is required
9 under subsection (m) of Section 16-108 of the Public
10 Utilities Act.

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

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

15 (1) The General Assembly finds:

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

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

1 until Illinois is able to develop other forms of clean
2 energy.

3 (C) The General Assembly finds that nuclear power
4 generation is necessary for the State's transition to 100%
5 clean energy, and ensuring continued operation of nuclear
6 plants advances environmental and public health interests
7 through providing carbon-free electricity while reducing
8 the air pollution profile of the Illinois energy
9 generation fleet.

10 (D) The clean energy attributes of nuclear generation
11 facilities support the State in its efforts to achieve
12 100% clean energy.

13 (E) The State currently invests in various forms of
14 clean energy, including, but not limited to, renewable
15 energy, energy efficiency, and low-emission vehicles,
16 among others.

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

1 program.

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

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

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

19 (2) As used in this subsection:

20 "Baseline costs" means costs used to establish a customer
21 protection cap that have been evaluated through an independent
22 audit of a carbon-free energy resource conducted by the
23 Environmental Protection Agency that evaluated projected
24 annual costs for operation and maintenance expenses; fully
25 allocated overhead costs, which shall be allocated using the
26 methodology developed by the Institute for Nuclear Power

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

8 "Carbon mitigation credit" means a tradable credit that
9 represents the carbon emission reduction attributes of one
10 megawatt-hour of energy produced from a carbon-free energy
11 resource.

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

15 (3) Procurement.

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

1 resource's projected output.

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

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

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

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

21 (iv) financial need and the risk of loss of the
22 environmental benefits of such resource, which shall
23 include the following information:

24 (I) the carbon-free energy resource's cost
25 projections, expressed on a per megawatt-hour
26 basis, over the next 5 delivery years, which shall

1 include the following: operation and maintenance
2 expenses; fully allocated overhead costs, which
3 shall be allocated using the methodology developed
4 by the Institute for Nuclear Power Operations;
5 fuel expenditures; nonfuel capital expenditures;
6 spent fuel expenditures; a return on working
7 capital; the cost of operational and market risks
8 that could be avoided by ceasing operation; and
9 any other costs necessary for continued
10 operations, provided that "necessary" means, for
11 purposes of this subitem (I), that the costs could
12 reasonably be avoided only by ceasing operations
13 of the carbon-free energy resource; and

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

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

1 have access to, and maintain the confidentiality of, such
2 information pursuant to Section 6.5 of the Attorney
3 General Act.

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

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

19 (ii) Contracts for carbon mitigation credits shall
20 commence with the delivery year beginning on June 1,
21 2022 and shall be for a term of 5 delivery years
22 concluding on May 31, 2027.

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

26 (I) one of the following energy price indices,

1 selected by the bidder at the time of the bid for
2 the term of the contract:

3 (aa) the weighted-average hourly day-ahead
4 price for the applicable delivery year at the
5 busbar of all resources procured pursuant to
6 this subsection (d-10), weighted by actual
7 production from the resources; or

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

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

1 in the carbon mitigation credit procurement plan;
2 and

3 (III) any value of monetized federal tax
4 credits, direct payments, or similar subsidy
5 provided to the carbon-free energy resource from
6 any unit of government that is not already
7 reflected in energy prices.

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

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

1 (iv) To ensure that retail customers in Northern
2 Illinois do not pay more for carbon mitigation credits
3 than the value such credits provide, and
4 notwithstanding the provisions of this subsection
5 (d-10), the Agency shall not accept bids for contracts
6 that exceed a customer protection cap equal to the
7 baseline costs of carbon-free energy resources.

8 The baseline costs for the applicable year shall
9 be the following:

10 (I) For the delivery year beginning June 1,
11 2022, the baseline costs shall be an amount equal
12 to \$30.30 per megawatt-hour.

13 (II) For the delivery year beginning June 1,
14 2023, the baseline costs shall be an amount equal
15 to \$32.50 per megawatt-hour.

16 (III) For the delivery year beginning June 1,
17 2024, the baseline costs shall be an amount equal
18 to \$33.43 per megawatt-hour.

19 (IV) For the delivery year beginning June 1,
20 2025, the baseline costs shall be an amount equal
21 to \$33.50 per megawatt-hour.

22 (V) For the delivery year beginning June 1,
23 2026, the baseline costs shall be an amount equal
24 to \$34.50 per megawatt-hour.

25 An Environmental Protection Agency consultant
26 forecast, included in a report issued April 14, 2021,

1 projects that a carbon-free energy resource has the
2 opportunity to earn on average approximately \$30.28
3 per megawatt-hour, for the sale of energy and capacity
4 during the time period between 2022 and 2027.
5 Therefore, the sale of carbon mitigation credits
6 provides the opportunity to receive an additional
7 amount per megawatt-hour in addition to the projected
8 prices for energy and capacity.

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

22 (D) No later than 7 days after the effective date of
23 this amendatory Act of the 102nd General Assembly, the
24 Agency shall publish its proposed carbon mitigation credit
25 procurement plan. The Plan shall provide that winning bids
26 shall be selected by taking into consideration which

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

1 Agency's website. All interested parties shall have 7 days
2 following the date of posting to provide comment to the
3 Agency on the plan. All comments shall be posted to the
4 Agency's website. Following the end of the comment period,
5 but no more than 19 days later than the effective date of
6 this amendatory Act of the 102nd General Assembly, the
7 Agency shall revise the plan as necessary based on the
8 comments received and file its carbon mitigation credit
9 procurement plan with the Commission.

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

23 (i) identify how the selected carbon-free energy
24 resources satisfy the public interest criteria
25 described in this paragraph (3) of minimizing carbon
26 dioxide emissions that result from electricity

1 consumed in Illinois and minimizing sulfur dioxide,
2 nitrogen oxide, and particulate matter emissions that
3 adversely affect the citizens of this State;

4 (ii) specifically address how the selection of
5 carbon-free energy resources takes into account the
6 incremental environmental benefits resulting from the
7 procurement, including any existing environmental
8 benefits that are preserved by the procurements held
9 under this amendatory Act of the 102nd General
10 Assembly and would have ceased to exist if the
11 procurements had not been held, such as the
12 preservation of carbon-free energy resources;

13 (iii) quantify the environmental benefit of
14 preserving the carbon-free energy resources procured
15 pursuant to this subsection (d-10), including the
16 following:

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

23 (II) an assessment of costs of replacement
24 with other carbon-free energy resources and
25 renewable energy resources, including wind and
26 photovoltaic generation, based upon an assessment

1 of the prices paid for renewable energy credits
2 through programs and procurements conducted
3 pursuant to subsection (c) of Section 1-75 of this
4 Act, and the additional storage necessary to
5 produce the same or similar capability of matching
6 customer usage patterns.

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

23 (F-1) Costs incurred by the electric utility pursuant
24 to a contract authorized by this subsection (d-10) shall
25 be deemed prudently incurred and reasonable in amount, and
26 the electric utility shall be entitled to full cost

1 recovery pursuant to a tariff or tariffs filed with the
2 Commission.

3 (G) The counterparty electric utility shall retire all
4 carbon mitigation credits used to comply with the
5 requirements of this subsection (d-10).

6 (H) If a carbon-free energy resource is sold to
7 another owner, the rights, obligations, and commitments
8 under this subsection (d-10) shall continue to the
9 subsequent owner.

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

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

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

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

25 (i) A renewable energy credit, carbon emission credit,
26 zero emission credit, or carbon mitigation credit can only be

1 used once to comply with a single portfolio or other standard
2 as set forth in subsection (c), subsection (d), or subsection
3 (d-5) of this Section, respectively. A renewable energy
4 credit, carbon emission credit, zero emission credit, or
5 carbon mitigation credit cannot be used to satisfy the
6 requirements of more than one standard. If more than one type
7 of credit is issued for the same megawatt hour of energy, only
8 one credit can be used to satisfy the requirements of a single
9 standard. After such use, the credit must be retired together
10 with any other credits issued for the same megawatt hour of
11 energy.

12 (Source: P.A. 101-81, eff. 7-12-19; 101-113, eff. 1-1-20;
13 102-662, eff. 9-15-21.)

14 (Text of Section after amendment by P.A. 103-380)

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 year,
19 beginning in 2008, develop procurement plans and conduct
20 competitive procurement processes in accordance with the
21 requirements of Section 16-111.5 of the Public Utilities Act
22 for the eligible retail customers of electric utilities that
23 on December 31, 2005 provided electric service to at least
24 100,000 customers in Illinois. Beginning with the delivery
25 year commencing on June 1, 2017, the Planning and Procurement

1 Bureau shall develop plans and processes for the procurement
2 of zero emission credits from zero emission facilities in
3 accordance with the requirements of subsection (d-5) of this
4 Section. Beginning on the effective date of this amendatory
5 Act of the 102nd General Assembly, the Planning and
6 Procurement Bureau shall develop plans and processes for the
7 procurement of carbon mitigation credits from carbon-free
8 energy resources in accordance with the requirements of
9 subsection (d-10) of this Section. The Planning and
10 Procurement Bureau shall also develop procurement plans and
11 conduct competitive procurement processes in accordance with
12 the requirements of Section 16-111.5 of the Public Utilities
13 Act for the eligible retail customers of small
14 multi-jurisdictional electric utilities that (i) on December
15 31, 2005 served less than 100,000 customers in Illinois and
16 (ii) request a procurement plan for their Illinois
17 jurisdictional load. This Section shall not apply to a small
18 multi-jurisdictional utility until such time as a small
19 multi-jurisdictional utility requests the Agency to prepare a
20 procurement plan for their Illinois jurisdictional load. For
21 the purposes of this Section, the term "eligible retail
22 customers" has the same definition as found in Section
23 16-111.5(a) of the Public Utilities Act.

24 Beginning with the plan or plans to be implemented in the
25 2017 delivery year, the Agency shall no longer include the
26 procurement of renewable energy resources in the annual

1 procurement plans required by this subsection (a), except as
2 provided in subsection (q) of Section 16-111.5 of the Public
3 Utilities Act, and shall instead develop a long-term renewable
4 resources procurement plan in accordance with subsection (c)
5 of this Section and Section 16-111.5 of the Public Utilities
6 Act.

7 In accordance with subsection (c-5) of this Section, the
8 Planning and Procurement Bureau shall oversee 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 utility-scale solar projects to be
12 installed, along with energy storage facilities, at or
13 adjacent to the sites of electric generating facilities that,
14 as of January 1, 2016, burned coal as their primary fuel
15 source.

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

22 (A) direct previous experience assembling
23 large-scale power supply plans or portfolios for
24 end-use customers;

25 (B) an advanced degree in economics, mathematics,
26 engineering, risk management, or a related area of

1 study;

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

4 (D) expertise in wholesale electricity market
5 rules, including those established by the Federal
6 Energy Regulatory Commission and regional transmission
7 organizations;

8 (E) expertise in credit protocols and familiarity
9 with contract protocols;

10 (F) adequate resources to perform and fulfill the
11 required functions and responsibilities; and

12 (G) the absence of a conflict of interest and
13 inappropriate bias for or against potential bidders or
14 the affected electric utilities.

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

21 (A) direct previous experience administering a
22 large-scale competitive procurement process;

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

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

1 (D) expertise in wholesale electricity market
2 rules, including those established by the Federal
3 Energy Regulatory Commission and regional transmission
4 organizations;

5 (E) expertise in credit and contract protocols;

6 (F) adequate resources to perform and fulfill the
7 required functions and responsibilities; and

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

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

26 (A) failure to satisfy qualification criteria;

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

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

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

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

18 (5) The Agency shall select an expert or expert
19 consulting firm to develop procurement plans based on the
20 proposals submitted and shall award contracts of up to 5
21 years to those selected.

22 (6) The Agency shall select an expert or expert
23 consulting firm, with approval of the Commission, to serve
24 as procurement administrator based on the proposals
25 submitted. If the Commission rejects, within 5 days, the
26 Agency's selection, the Agency shall submit another

1 recommendation within 3 days based on the proposals
2 submitted. The Agency shall award a 5-year contract to the
3 expert or expert consulting firm so selected with
4 Commission approval.

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

19 (c) Renewable portfolio standard.

20 (1) (A) The Agency shall develop a long-term renewable
21 resources procurement plan that shall include procurement
22 programs and competitive procurement events necessary to
23 meet the goals set forth in this subsection (c). The
24 initial long-term renewable resources procurement plan
25 shall be released for comment no later than 160 days after
26 June 1, 2017 (the effective date of Public Act 99-906).

1 The Agency shall review, and may revise on an expedited
2 basis, the long-term renewable resources procurement plan
3 at least every 2 years, which shall be conducted in
4 conjunction with the procurement plan under Section
5 16-111.5 of the Public Utilities Act to the extent
6 practicable to minimize administrative expense. No later
7 than 120 days after the effective date of this amendatory
8 Act of the 103rd General Assembly, the Agency shall
9 release for comment a revision to the long-term renewable
10 resources procurement plan, updating elements of the most
11 recently approved plan as needed to comply with this
12 amendatory Act of the 103rd General Assembly, and any
13 long-term renewable resources procurement plan update
14 published by the Agency but not yet approved by the
15 Illinois Commerce Commission shall be withdrawn. The
16 long-term renewable resources procurement plans shall be
17 subject to review and approval by the Commission under
18 Section 16-111.5 of the Public Utilities Act.

19 (B) Subject to subparagraph (F) of this paragraph (1),
20 the long-term renewable resources procurement plan shall
21 attempt to meet the goals for procurement of renewable
22 energy credits at levels of at least the following overall
23 percentages: 13% by the 2017 delivery year; increasing by
24 at least 1.5% each delivery year thereafter to at least
25 25% by the 2025 delivery year; increasing by at least 3%
26 each delivery year thereafter to at least 40% by the 2030

1 delivery year, and continuing at no less than 40% for each
2 delivery year thereafter. The Agency shall attempt to
3 procure 50% by delivery year 2040. The Agency shall
4 determine the annual increase between delivery year 2030
5 and delivery year 2040, if any, taking into account energy
6 demand, other energy resources, and other public policy
7 goals. In the event of a conflict between these goals and
8 the new wind, new photovoltaic, and hydropower procurement
9 requirements described in items (i) through (iii) of
10 subparagraph (C) of this paragraph (1), the long-term plan
11 shall prioritize compliance with the new wind, new
12 photovoltaic, and hydropower procurement requirements
13 described in items (i) through (iii) of subparagraph (C)
14 of this paragraph (1) over the annual percentage targets
15 described in this subparagraph (B). The Agency shall not
16 comply with the annual percentage targets described in
17 this subparagraph (B) by procuring renewable energy
18 credits that are unlikely to lead to the development of
19 new renewable resources or new, modernized, or retooled
20 hydropower facilities.

21 For the delivery year beginning June 1, 2017, the
22 procurement plan shall attempt to include, subject to the
23 prioritization outlined in this subparagraph (B),
24 cost-effective renewable energy resources equal to at
25 least 13% of each utility's load for eligible retail
26 customers and 13% of the applicable portion of each

1 utility's load for retail customers who are not eligible
2 retail customers, which applicable portion shall equal 50%
3 of the utility's load for retail customers who are not
4 eligible retail customers on February 28, 2017.

5 For the delivery year beginning June 1, 2018, the
6 procurement plan shall attempt to include, subject to the
7 prioritization outlined in this subparagraph (B),
8 cost-effective renewable energy resources equal to at
9 least 14.5% of each utility's load for eligible retail
10 customers and 14.5% of the applicable portion of each
11 utility's load for retail customers who are not eligible
12 retail customers, which applicable portion shall equal 75%
13 of the utility's load for retail customers who are not
14 eligible retail customers on February 28, 2017.

15 For the delivery year beginning June 1, 2019, and for
16 each year thereafter, the procurement plans shall attempt
17 to include, subject to the prioritization outlined in this
18 subparagraph (B), cost-effective renewable energy
19 resources equal to a minimum percentage of each utility's
20 load for all retail customers as follows: 16% by June 1,
21 2019; increasing by 1.5% each year thereafter to 25% by
22 June 1, 2025; and 25% by June 1, 2026; increasing by at
23 least 3% each delivery year thereafter to at least 40% by
24 the 2030 delivery year, and continuing at no less than 40%
25 for each delivery year thereafter. The Agency shall
26 attempt to procure 50% by delivery year 2040. The Agency

1 shall determine the annual increase between delivery year
2 2030 and delivery year 2040, if any, taking into account
3 energy demand, other energy resources, and other public
4 policy goals.

5 For each delivery year, the Agency shall first
6 recognize each utility's obligations for that delivery
7 year under existing contracts. Any renewable energy
8 credits under existing contracts, including renewable
9 energy credits as part of renewable energy resources,
10 shall be used to meet the goals set forth in this
11 subsection (c) for the delivery year.

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

16 (i) At least 10,000,000 renewable energy credits
17 delivered annually by the end of the 2021 delivery
18 year, and increasing ratably to reach 45,000,000
19 renewable energy credits delivered annually from new
20 wind and solar projects by the end of delivery year
21 2030 such that the goals in subparagraph (B) of this
22 paragraph (1) are met entirely by procurements of
23 renewable energy credits from new wind and
24 photovoltaic projects. Of that amount, to the extent
25 possible, the Agency shall procure 45% from wind and
26 hydropower projects and 55% from photovoltaic

1 projects. Of the amount to be procured from
2 photovoltaic projects, the Agency shall procure: at
3 least 50% from solar photovoltaic projects using the
4 program outlined in subparagraph (K) of this paragraph
5 (1) from distributed renewable energy generation
6 devices or community renewable generation projects; at
7 least 47% from utility-scale solar projects; at least
8 3% from brownfield site photovoltaic projects that are
9 not community renewable generation projects.

10 In developing the long-term renewable resources
11 procurement plan, the Agency shall consider other
12 approaches, in addition to competitive procurements,
13 that can be used to procure renewable energy credits
14 from brownfield site photovoltaic projects and thereby
15 help return blighted or contaminated land to
16 productive use while enhancing public health and the
17 well-being of Illinois residents, including those in
18 environmental justice communities, as defined using
19 existing methodologies and findings used by the Agency
20 and its Administrator in its Illinois Solar for All
21 Program. The Agency shall also consider other
22 approaches, in addition to competitive procurements,
23 to procure renewable energy credits from new and
24 existing hydropower facilities to support the
25 development and maintenance of these facilities. The
26 Agency shall explore options to convert existing dams

1 but shall not consider approaches to develop new dams
2 where they do not already exist.

3 (ii) In any given delivery year, if forecasted
4 expenses are less than the maximum budget available
5 under subparagraph (E) of this paragraph (1), the
6 Agency shall continue to procure new renewable energy
7 credits until that budget is exhausted in the manner
8 outlined in item (i) of this subparagraph (C).

9 (iii) For purposes of this Section:

10 "New wind projects" means wind renewable energy
11 facilities that are energized after June 1, 2017 for
12 the delivery year commencing June 1, 2017.

13 "New photovoltaic projects" means photovoltaic
14 renewable energy facilities that are energized after
15 June 1, 2017. Photovoltaic projects developed under
16 Section 1-56 of this Act shall not apply towards the
17 new photovoltaic project requirements in this
18 subparagraph (C).

19 For purposes of calculating whether the Agency has
20 procured enough new wind and solar renewable energy
21 credits required by this subparagraph (C), renewable
22 energy facilities that have a multi-year renewable
23 energy credit delivery contract with the utility
24 through at least delivery year 2030 shall be
25 considered new, however no renewable energy credits
26 from contracts entered into before June 1, 2021 shall

1 be used to calculate whether the Agency has procured
2 the correct proportion of new wind and new solar
3 contracts described in this subparagraph (C) for
4 delivery year 2021 and thereafter.

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

1 Agency staff, and the procurement monitor and shall be
2 subject to Commission review and approval. If price
3 benchmarks for like products in the region are not
4 available, the procurement administrator shall establish
5 price benchmarks based on publicly available data on
6 regional technology costs and expected current and future
7 regional energy prices. The benchmarks in this Section
8 shall not be used to curtail or otherwise reduce
9 contractual obligations entered into by or through the
10 Agency prior to June 1, 2017 (the effective date of Public
11 Act 99-906).

12 (E) For purposes of this subsection (c), the required
13 procurement of cost-effective renewable energy resources
14 for a particular year commencing prior to June 1, 2017
15 shall be measured as a percentage of the actual amount of
16 electricity (megawatt-hours) supplied by the electric
17 utility to eligible retail customers in the delivery year
18 ending immediately prior to the procurement, and, for
19 delivery years commencing on and after June 1, 2017, the
20 required procurement of cost-effective renewable energy
21 resources for a particular year shall be measured as a
22 percentage of the actual amount of electricity
23 (megawatt-hours) delivered by the electric utility in the
24 delivery year ending immediately prior to the procurement,
25 to all retail customers in its service territory. For
26 purposes of this subsection (c), the amount paid per

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

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

1 subparagraph (E) shall be made only once for each delivery
2 year at the time that the renewable energy resources are
3 procured. Once the determination as to the amount of
4 renewable energy resources to procure is made based on the
5 calculations set forth in this subparagraph (E) and the
6 contracts procuring those amounts are executed, no
7 subsequent rate impact determinations shall be made and no
8 adjustments to those contract amounts shall be allowed.
9 All costs incurred under such contracts shall be fully
10 recoverable by the electric utility as provided in this
11 Section.

12 (F) If the limitation on the amount of renewable
13 energy resources procured in subparagraph (E) of this
14 paragraph (1) prevents the Agency from meeting all of the
15 goals in this subsection (c), the Agency's long-term plan
16 shall prioritize compliance with the requirements of this
17 subsection (c) regarding renewable energy credits in the
18 following order:

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

21 (i-5) funding for the Illinois Solar for All
22 Program, as described in subparagraph (O) of this
23 paragraph (1);

24 (ii) renewable energy credits necessary to comply
25 with the new wind and new photovoltaic procurement
26 requirements described in items (i) through (iii) of

1 subparagraph (C) of this paragraph (1); and

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

4 (G) The following provisions shall apply to the
5 Agency's procurement of renewable energy credits under
6 this subsection (c):

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

1 this initial procurement shall be included in the
2 Agency's long-term plan and shall apply to all
3 renewable energy goals in this subsection (c).

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

1 Renewable energy credits procured under this initial
2 procurement shall be included in the Agency's
3 long-term plan and shall apply to all renewable energy
4 goals in this subsection (c).

5 (iii) Notwithstanding whether the Commission has
6 approved the periodic long-term renewable resources
7 procurement plan revision described in Section
8 16-111.5 of the Public Utilities Act, the Agency shall
9 conduct at least one subsequent forward procurement
10 for renewable energy credits from new utility-scale
11 wind projects, new utility-scale solar projects, and
12 new brownfield site photovoltaic projects within 240
13 days after the effective date of this amendatory Act
14 of the 102nd General Assembly in quantities necessary
15 to meet the requirements of subparagraph (C) of this
16 paragraph (1) through the delivery year beginning June
17 1, 2021.

18 (iv) Notwithstanding whether the Commission has
19 approved the periodic long-term renewable resources
20 procurement plan revision described in Section
21 16-111.5 of the Public Utilities Act, the Agency shall
22 open capacity for each category in the Adjustable
23 Block program within 90 days after the effective date
24 of this amendatory Act of the 102nd General Assembly
25 manner:

26 (1) The Agency shall open the first block of

1 annual capacity for the category described in item
2 (i) of subparagraph (K) of this paragraph (1). The
3 first block of annual capacity for item (i) shall
4 be for at least 75 megawatts of total nameplate
5 capacity. The price of the renewable energy credit
6 for this block of capacity shall be 4% less than
7 the price of the last open block in this category.
8 Projects on a waitlist shall be awarded contracts
9 first in the order in which they appear on the
10 waitlist. Notwithstanding anything to the
11 contrary, for those renewable energy credits that
12 qualify and are procured under this subitem (1) of
13 this item (iv), the renewable energy credit
14 delivery contract value shall be paid in full,
15 based on the estimated generation during the first
16 15 years of operation, by the contracting
17 utilities at the time that the facility producing
18 the renewable energy credits is interconnected at
19 the distribution system level of the utility and
20 verified as energized and in compliance by the
21 Program Administrator. The electric utility shall
22 receive and retire all renewable energy credits
23 generated by the project for the first 15 years of
24 operation. Renewable energy credits generated by
25 the project thereafter shall not be transferred
26 under the renewable energy credit delivery

1 contract with the counterparty electric utility.

2 (2) The Agency shall open the first block of
3 annual capacity for the category described in item
4 (ii) of subparagraph (K) of this paragraph (1).
5 The first block of annual capacity for item (ii)
6 shall be for at least 75 megawatts of total
7 nameplate capacity.

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

1 the waitlist for this category before the
2 opening of this block 20% of the renewable
3 energy credit delivery contract value, based
4 on the estimated generation during the first
5 15 years of operation, shall be paid by the
6 contracting utilities at the time that the
7 facility producing the renewable energy
8 credits is interconnected at the distribution
9 system level of the utility and verified as
10 energized by the Program Administrator. The
11 remaining portion shall be paid ratably over
12 the subsequent 4-year period. The electric
13 utility shall receive and retire all renewable
14 energy credits generated by the project during
15 the first 15 years of operation. Renewable
16 energy credits generated by the project
17 thereafter shall not be transferred under the
18 renewable energy credit delivery contract with
19 the counterparty electric utility.

20 (B) The price of renewable energy credits
21 for any project not on the waitlist for this
22 category before the opening of the block shall
23 be determined and published by the Agency.
24 Projects not on a waitlist as of the opening
25 of this block shall be subject to the
26 requirements of subparagraph (Q) of this

1 paragraph (1), as applicable. Projects not on
2 a waitlist as of the opening of this block
3 shall be subject to the contract provisions
4 outlined in item (iii) of subparagraph (L) of
5 this paragraph (1). The Agency shall strive to
6 publish updated prices and an updated
7 renewable energy credit delivery contract as
8 quickly as possible.

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

20 The first 2 blocks of annual capacity for item
21 (iii) shall be for 250 megawatts of total
22 nameplate capacity, with both blocks opening
23 simultaneously under the schedule outlined in the
24 paragraphs below. Projects shall be selected as
25 follows:

26 (A) The geographic balance of selected

1 projects shall follow the Group classification
2 found in the Agency's Revised Long-Term
3 Renewable Resources Procurement Plan, with 70%
4 of capacity allocated to projects on the Group
5 B waitlist and 30% of capacity allocated to
6 projects on the Group A waitlist.

7 (B) Contract awards for waitlisted
8 projects shall be allocated proportionate to
9 the total nameplate capacity amount across
10 both ordinal waitlists associated with that
11 applicant firm or its affiliates, subject to
12 the following conditions.

13 (i) Each applicant firm having a
14 waitlisted project eligible for selection
15 shall receive no less than 500 kilowatts
16 in awarded capacity across all groups, and
17 no approved vendor may receive more than
18 20% of each Group's waitlist allocation.

19 (ii) Each applicant firm, upon
20 receiving an award of program capacity
21 proportionate to its waitlisted capacity,
22 may then determine which waitlisted
23 projects it chooses to be selected for a
24 contract award up to that capacity amount.

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

1 adjust the nameplate capacity of applicant
2 projects without losing waitlist
3 eligibility, so long as no project is
4 greater than 2,000 kilowatts in size.

5 (iv) Assuming all other program
6 requirements are met, applicant firms may
7 adjust the expected production associated
8 with applicant projects, subject to
9 verification by the Program Administrator.

10 (C) After a review of affiliate
11 information and the current ordinal waitlists,
12 the Agency shall announce the nameplate
13 capacity award amounts associated with
14 applicant firms no later than 90 days after
15 the effective date of this amendatory Act of
16 the 102nd General Assembly.

17 (D) Applicant firms shall submit their
18 portfolio of projects used to satisfy those
19 contract awards no less than 90 days after the
20 Agency's announcement. The total nameplate
21 capacity of all projects used to satisfy that
22 portfolio shall be no greater than the
23 Agency's nameplate capacity award amount
24 associated with that applicant firm. An
25 applicant firm may decline, in whole or in
26 part, its nameplate capacity award without

1 penalty, with such unmet capacity rolled over
2 to the next block opening for project
3 selection under item (iii) of subparagraph (K)
4 of this subsection (c). Any projects not
5 included in an applicant firm's portfolio may
6 reapply without prejudice upon the next block
7 reopening for project selection under item
8 (iii) of subparagraph (K) of this subsection
9 (c).

10 (E) The renewable energy credit delivery
11 contract shall be subject to the contract and
12 payment terms outlined in item (iv) of
13 subparagraph (L) of this subsection (c).
14 Contract instruments used for this
15 subparagraph shall contain the following
16 terms:

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

1 below 25 kilowatts in size;

2 (ii) A requirement that a minimum of
3 50% of subscribers to the project's
4 nameplate capacity be residential or small
5 commercial customers with subscriptions of
6 below 25 kilowatts in size;

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

22 The Agency shall publish a finalized
23 updated renewable energy credit delivery
24 contract developed consistent with these terms
25 and conditions no less than 30 days before
26 applicant firms must submit their portfolio of

1 projects pursuant to item (D).

2 (F) To be eligible for an award, the
3 applicant firm shall certify that not less
4 than prevailing wage, as determined pursuant
5 to the Illinois Prevailing Wage Act, was or
6 will be paid to employees who are engaged in
7 construction activities associated with a
8 selected project.

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

26 (5) The Agency shall open the equivalent of 2

1 years of annual capacity for the category
2 described in item (v) of subparagraph (K) of this
3 paragraph (1). The first block of annual capacity
4 for item (v) shall be for at least 10 megawatts of
5 total nameplate capacity. Notwithstanding the
6 provisions of item (v) of subparagraph (K) of this
7 paragraph (1), for the purpose of this initial
8 block, the agency shall accept new project
9 applications intended to increase the diversity of
10 areas hosting community solar projects, the
11 business models of projects, and the size of
12 projects, as described by the Agency in its
13 long-term renewable resources procurement plan
14 that is approved as of the effective date of this
15 amendatory Act of the 102nd General Assembly.
16 Projects in this category shall be subject to the
17 contract terms outlined in item (iii) of
18 subsection (L) of this paragraph (1).

19 (6) The Agency shall open the first blocks of
20 annual capacity for the category described in item
21 (vi) of subparagraph (K) of this paragraph (1),
22 with allocations of capacity within the block
23 generally matching the historical share of block
24 capacity allocated between the category described
25 in items (i) and (ii) of subparagraph (K) of this
26 paragraph (1). The first two blocks of annual

1 capacity for item (vi) shall be for at least 75
2 megawatts of total nameplate capacity. The price
3 of renewable energy credits for the blocks of
4 capacity shall be 4% less than the price of the
5 last open blocks in the categories described in
6 items (i) and (ii) of subparagraph (K) of this
7 paragraph (1). Pricing for future blocks of annual
8 capacity for this category may be adjusted in the
9 Agency's second revision to its Long-Term
10 Renewable Resources Procurement Plan. Projects in
11 this category shall be subject to the applicable
12 contract terms outlined in items (ii) and (iii) of
13 subparagraph (L) of this paragraph (1).

14 (v) Upon the effective date of this amendatory Act
15 of the 102nd General Assembly, for all competitive
16 procurements and any procurements of renewable energy
17 credit from new utility-scale wind and new
18 utility-scale photovoltaic projects, the Agency shall
19 procure indexed renewable energy credits and direct
20 respondents to offer a strike price.

21 (1) The purchase price of the indexed
22 renewable energy credit payment shall be
23 calculated for each settlement period. That
24 payment, for any settlement period, shall be equal
25 to the difference resulting from subtracting the
26 strike price from the index price for that

1 settlement period. If this difference results in a
2 negative number, the indexed REC counterparty
3 shall owe the seller the absolute value multiplied
4 by the quantity of energy produced in the relevant
5 settlement period. If this difference results in a
6 positive number, the seller shall owe the indexed
7 REC counterparty this amount multiplied by the
8 quantity of energy produced in the relevant
9 settlement period.

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

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

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

1 available price forecast data and additional
2 budget dollars shall be obligated or reobligated
3 as appropriate.

4 (4) To ensure that indexed renewable energy
5 credit prices remain predictable and affordable,
6 the Agency may consider the institution of a price
7 collar on REC prices paid under indexed renewable
8 energy credit procurements establishing floor and
9 ceiling REC prices applicable to indexed REC
10 contract prices. Any price collars applicable to
11 indexed REC procurements shall be proposed by the
12 Agency through its long-term renewable resources
13 procurement plan.

14 (vi) All procurements under this subparagraph (G),
15 including the procurement of renewable energy credits
16 from hydropower facilities, shall comply with the
17 geographic requirements in subparagraph (I) of this
18 paragraph (1) and shall follow the procurement
19 processes and procedures described in this Section and
20 Section 16-111.5 of the Public Utilities Act to the
21 extent practicable, and these processes and procedures
22 may be expedited to accommodate the schedule
23 established by this subparagraph (G).

24 (vii) On and after the effective date of this
25 amendatory Act of the 103rd General Assembly, for all
26 procurements of renewable energy credits from

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

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

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

1 generate one renewable energy credit for each
2 megawatthour of energy produced from the facility.

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

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

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

1 subparagraph (H), subject to the following
2 limitations:

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

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

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

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

1 alternative retail supplier in that delivery year,
2 provided that the 14.5% shall increase by 1.5% each
3 delivery year thereafter to 25% by the delivery year
4 beginning June 1, 2025, and thereafter the 25% value
5 shall apply to each delivery year.

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

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

1 The Agency may qualify renewable energy credits from
2 facilities located in states adjacent to Illinois or
3 renewable energy credits associated with the electricity
4 generated by a utility-scale wind energy facility or
5 utility-scale photovoltaic facility and transmitted by a
6 qualifying direct current project described in subsection
7 (b-5) of Section 8-406 of the Public Utilities Act to a
8 delivery point on the electric transmission grid located
9 in this State or a state adjacent to Illinois, if the
10 generator demonstrates and the Agency determines that the
11 operation of such facility or facilities will help promote
12 the State's interest in the health, safety, and welfare of
13 its residents based on the public interest criteria
14 described above. For the purposes of this Section,
15 renewable resources that are delivered via a high voltage
16 direct current converter station located in Illinois shall
17 be deemed generated in Illinois at the time and location
18 the energy is converted to alternating current by the high
19 voltage direct current converter station if the high
20 voltage direct current transmission line: (i) after the
21 effective date of this amendatory Act of the 102nd General
22 Assembly, was constructed with a project labor agreement;
23 (ii) is capable of transmitting electricity at 525kv;
24 (iii) has an Illinois converter station located and
25 interconnected in the region of the PJM Interconnection,
26 LLC; (iv) does not operate as a public utility; and (v) if

1 the high voltage direct current transmission line was
2 energized after June 1, 2023. To ensure that the public
3 interest criteria are applied to the procurement and given
4 full effect, the Agency's long-term procurement plan shall
5 describe in detail how each public interest factor shall
6 be considered and weighted for facilities located in
7 states adjacent to Illinois.

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

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

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

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

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

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

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

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

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

25 (ii) At least 20% from distributed renewable
26 energy generation devices with a nameplate capacity of

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

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

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

23 (2) projects shall have subscriptions of 25 kW
24 or less for at least 50% of the facility's
25 nameplate capacity and the Agency shall price the
26 renewable energy credits with that as a factor;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Selection criteria may also prioritize projects
2 that:

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

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

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

16 (4) are not greenfield projects;

17 (5) serve only local subscribers;

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

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

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

1 options in Illinois.

2 For the purposes of this item (v):

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

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

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

1 benefit from regular use of that facility.

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

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

25 The Agency shall propose a payment structure for
26 contracts executed pursuant to this paragraph under

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

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

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

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

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

26 Notwithstanding anything to the contrary, as the

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

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

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

16 (i) (Blank).

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

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

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

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

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

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

26 (v) Each contract shall include provisions to

1 ensure the delivery of the estimated quantity of
2 renewable energy credits and ongoing collateral
3 requirements and other provisions deemed appropriate
4 by the Agency.

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

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

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

1 executed under this Section shall expressly
2 incorporate this limitation.

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

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

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

1 the requirements of Section 20-10 of the Illinois
2 Procurement Code, under Section 20-10 of that Code. The
3 Agency shall strive to minimize administrative expenses in
4 the implementation of the Adjustable Block program.

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

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

1 by the Agency to position the State of Illinois as a
2 national leader in renewable energy incentive program
3 development and administration.

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

23 The Agency and its program administrators for both the
24 Adjustable Block program and the Illinois Solar for All
25 Program, consistent with the requirements of this
26 subsection (c) and subsection (b) of Section 1-56 of this

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

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

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

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

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

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

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

1 documenting the frequency and nature of complaints and
2 any enforcement actions taken in response to those
3 complaints.

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

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

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

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

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

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

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

1 under the electric utility's tariff for purchasing the
2 output from QFs under Public Utilities Regulatory Policies
3 Act of 1978.

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

13 (O) For the delivery year beginning June 1, 2018, the
14 long-term renewable resources procurement plan required by
15 this subsection (c) shall provide for the Agency to
16 procure contracts to continue offering the Illinois Solar
17 for All Program described in subsection (b) of Section
18 1-56 of this Act, and the contracts approved by the
19 Commission shall be executed by the utilities that are
20 subject to this subsection (c). The long-term renewable
21 resources procurement plan shall allocate up to
22 \$50,000,000 per delivery year to fund the programs, and
23 the plan shall determine the amount of funding to be
24 apportioned to the programs identified in subsection (b)
25 of Section 1-56 of this Act; provided that for the
26 delivery years beginning June 1, 2021, June 1, 2022, and

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

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

23 The Agency shall develop a method to optimize
24 procurement of renewable energy credits from proposed
25 utility-scale projects that are located in communities
26 eligible to receive Energy Transition Community Grants

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

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

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

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

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

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

14 (iii) all new brownfield photovoltaic
15 projects;

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

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

22 (vi) all new photovoltaic projects on public
23 school land ~~distributed renewable energy~~
24 ~~generation devices on schools~~ that qualify for
25 item (iv) of subparagraph (K) of this paragraph
26 (1);

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

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

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

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

1 construction. The project labor agreement shall be
2 filed with the Director in accordance with procedures
3 established by the Agency through its long-term
4 renewable resources procurement plan. Any information
5 submitted to the Agency in this item (2) shall be
6 considered commercially sensitive information. At a
7 minimum, the project labor agreement must provide the
8 names, addresses, and occupations of the owner of the
9 plant and the individuals representing the labor
10 organization employees participating in the project
11 labor agreement consistent with the Project Labor
12 Agreements Act. The agreement must also specify the
13 terms and conditions as defined by this Act.

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

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

6 (R) In its long-term renewable resources procurement
7 plan, the Agency shall establish a self-direct renewable
8 portfolio standard compliance program for eligible
9 self-direct customers that purchase renewable energy
10 credits from utility-scale wind and solar projects through
11 long-term agreements for purchase of renewable energy
12 credits as described in this Section. Such long-term
13 agreements may include the purchase of energy or other
14 products on a physical or financial basis and may involve
15 an alternative retail electric supplier as defined in
16 Section 16-102 of the Public Utilities Act. This program
17 shall take effect in the delivery year commencing June 1,
18 2023.

19 (1) For the purposes of this subparagraph:

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

1 the State and whose total highest 15-minute demand was
2 more than 10,000 kilowatts.

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

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

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

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

1 purchase agreement;

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

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

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

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

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

1 and subsection (c-10).

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

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

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

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

20 (5) Customers described in this subparagraph (R)
21 shall apply, on a form developed by the Agency, to the
22 Agency to be designated as a self-direct eligible
23 customer. Once the Agency determines that a
24 self-direct customer is eligible for participation in
25 the program, the self-direct customer will remain
26 eligible until the end of the term of the contract.

1 Thereafter, application may be made not less than 12
2 months before the filing date of the long-term
3 renewable resources procurement plan described in this
4 Act. At a minimum, such application shall contain the
5 following:

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

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

17 (iii) certification that the contract or
18 contracts for new renewable energy resources are
19 long-term contracts with term lengths of at least
20 10 years, including supporting documentation;

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

25 (v) proof that the contract is sufficient to
26 produce renewable energy credits to be equivalent

1 in volume to at least 40% of the large energy
2 customer's usage from the previous delivery year,
3 measured to the nearest megawatt-hour; and

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

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

21 (2) (Blank).

22 (3) (Blank).

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

25 (5) Beginning with the 2010 delivery year and ending
26 June 1, 2017, an electric utility subject to this

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

24 (6) The electric utility shall be entitled to recover
25 all of its costs associated with the procurement of
26 renewable energy credits under plans approved under this

1 Section and Section 16-111.5 of the Public Utilities Act.
2 These costs shall include associated reasonable expenses
3 for implementing the procurement programs, including, but
4 not limited to, the costs of administering and evaluating
5 the Adjustable Block program, through an automatic
6 adjustment clause tariff in accordance with subsection (k)
7 of Section 16-108 of the Public Utilities Act.

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

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

26 (c-5) Procurement of renewable energy credits from new

1 renewable energy facilities installed at or adjacent to the
2 sites of electric generating facilities that burn or burned
3 coal as their primary fuel source.

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

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

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

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

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

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

1 and the coal-fueled electric generating facility was
2 at one time owned, in whole or in part, by a public
3 utility as defined in Section 3-105 of the Public
4 Utilities Act.

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

26 (D) The applicant agrees that the new renewable

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

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

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

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

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

18 (H) The applicant commits to enter into a contract
19 or contracts for the applicable duration to provide
20 specified numbers of renewable energy credits each
21 year from the new renewable energy facility to
22 electric utilities that served more than 300,000
23 retail customers in this State as of January 1, 2019,
24 at a price of \$30 per renewable energy credit. The
25 price per renewable energy credit shall be fixed at
26 \$30 for the applicable duration and the renewable

1 energy credits shall not be indexed renewable energy
2 credits as provided for in item (v) of subparagraph
3 (G) of paragraph (1) of subsection (c) of Section 1-75
4 of this Act. The applicable duration of each contract
5 shall be 20 years, unless the applicant is physically
6 interconnected to the PJM Interconnection, LLC
7 transmission grid and had a generating capacity of at
8 least 1,200 megawatts as of January 1, 2021, in which
9 case the applicable duration of the contract shall be
10 15 years.

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

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

24 (4) The Agency shall assess fees to each applicant to
25 recover the Agency's costs incurred in receiving and
26 evaluating applications, conducting the procurement event,

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

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

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

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

25 (7) The Agency shall submit its proposed selection of
26 applicants, new renewable energy facilities to be

1 constructed, and renewable energy credit amounts for each
2 procurement event to the Commission for approval. The
3 Commission shall, within 2 business days after receipt of
4 the Agency's proposed selections, approve the proposed
5 selections if it determines that the applicants and the
6 new renewable energy facilities to be constructed meet the
7 selection criteria set forth in this subsection (c-5) and
8 that the Agency seeks approval for contracts of applicable
9 durations aggregating to no more than the maximum amount
10 of renewable energy credits per year authorized by this
11 subsection (c-5) for the procurement event, at a price of
12 \$30 per renewable energy credit.

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

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

1 potential applicants, and shall publish the final form
2 contract at least 30 days before the date of the first
3 procurement event.

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

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

1 department or agency, which shall be referred to in
2 this subsection (c-5) as the Department, pursuant to
3 paragraph (10) of this subsection (c-5). The electric
4 utility's tariff shall provide for the billing and
5 collection of the Coal to Solar and Energy Storage
6 Initiative Charge on each kilowatthour of electricity
7 delivered to its delivery services customers within
8 its service territory and shall provide for an annual
9 reconciliation of revenues collected with actual
10 costs, in accordance with subsection (i-5) of Section
11 16-108 of the Public Utilities Act.

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

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

22 (A) The Coal to Solar and Energy Storage
23 Initiative Fund is established as a special fund in
24 the State treasury. The Coal to Solar and Energy
25 Storage Initiative Fund is authorized to receive, by
26 statutory deposit, that portion specified in item (B)

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

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

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

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

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

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

14 (3) if the electric generating facility is
15 retired, it was retired subsequent to January 1,
16 2016;

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

25 (5) the electric generating facility located
26 at the site was at one time owned, in whole or in

1 part, by a public utility as defined in Section
2 3-105 of the Public Utilities Act;

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

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

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

23 (9) the owner agrees that the new energy
24 storage facility will be constructed or installed
25 by a qualified entity or entities consistent with
26 the requirements of subsection (g) of Section

1 16-128A of the Public Utilities Act and any rules
2 adopted under that Section;

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

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

1 report with the Department certifying that the
2 requirements of this subparagraph (11) have been
3 met; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (C) At the end of each delivery year, each entity
26 participating and completing work in that delivery

1 year in a procurement program of subsection (c) shall
2 submit a report to the Agency that demonstrates how it
3 achieved compliance with the minimum equity standards
4 percentage for that delivery year.

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

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

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

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

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

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

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

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

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

24 (E) An application for waiver of the minimum
25 equity standards of this subsection, which the Agency
26 shall have the discretion to grant in rare

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

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

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

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

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

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

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

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

25 (A) Within one year after awarding contracts using
26 the equity actions processes established in this

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

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

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

11 (c-20) Program data collection.

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

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

1 program.

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

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

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

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

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

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

26 (c-25) Energy Workforce Equity Database.

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

11 (A) publicly accessible;

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

13 (C) organized by company specialty or field;

14 (D) region-specific; and

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

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

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

26 (B) job postings and recruiting opportunities;

1 (C) a means by which recruiting clean energy
2 companies can find and interact with current or former
3 participants of clean energy workforce training
4 programs;

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

8 (E) renewable energy company diversity reporting;

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

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

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

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

1 Jobs Training Program, or Clean Energy Primes Contractor
2 Accelerator Program.

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

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
22 coal facility, as provided in paragraph (3) of this
23 subsection (d), covering electricity generated by the
24 initial clean coal facility representing at least 5% of
25 each utility's total supply to serve the load of eligible
26 retail customers in 2015 and each year thereafter, as

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (B) power purchase provisions, which shall:

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

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

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

1 utility's retail market sales of electricity
2 (expressed in kilowatthours sold) 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 purchased by the utility
14 in any year will be limited by paragraph (2) of
15 this subsection (d); and

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

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

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

1 of which is such utility's retail market sales of
2 electricity (expressed in kilowatthours sold) in
3 the utility's service territory 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 paid by the utility in
15 any year will be limited by paragraph (2) of this
16 subsection (d);

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

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

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

12 (D) general provisions, which shall:

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

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

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

1 Regulatory Commission and to purchasers in
2 accordance with applicable laws governing
3 cost-based wholesale power contracts;

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

11 (v) require the owner of the initial clean
12 coal 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
23 that 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
9 any 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
5 the course of the review specified in item (vii),
6 reduce the allowable return on equity for the
7 facility if the facility willfully 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
18 in subparagraphs (A)(i) through (A)(iii) of
19 paragraph (3) of this subsection (d), prior to an
20 adjustment in those inputs including, without
21 limitation, the capital structure and return on
22 equity, fuel costs, and other operations and
23 maintenance costs and (2) to approve the costs to
24 be passed through to customers under the sourcing
25 agreement by which the utility satisfies its
26 statutory obligations. Commission review shall

1 occur no less than every 3 years, regardless of
2 whether any adjustments have been proposed, and
3 shall be completed within 9 months;

4 (viii) limit the utility's obligation to such
5 amount as the utility is allowed to recover
6 through tariffs filed with the Commission,
7 provided that neither the clean coal facility nor
8 the utility waives any right to assert federal
9 pre-emption or any other argument in response to a
10 purported 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
16 delivered 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
23 the 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
6 the power purchase provisions, are subject to
7 review under the public interest standard applied
8 by the Federal Energy Regulatory Commission
9 pursuant to Sections 205 and 206 of the Federal
10 Power Act; and

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

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

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

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

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

1 to receipt of the facility cost report.

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

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

25 (A) The facility cost report shall be prepared by
26 duly licensed engineering and construction firms

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

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

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

25 The quoted construction costs shall be expressed
26 in nominal dollars as of the date that the quote is

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

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

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

1 operating agreements, or recognized third party plant
2 operator or operators.

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

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

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

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

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

26 (6) Costs incurred under this subsection (d) or

1 pursuant to a contract entered into under this subsection
2 (d) shall be deemed prudently incurred and reasonable in
3 amount and the electric utility shall be entitled to full
4 cost recovery pursuant to the tariffs filed with the
5 Commission.

6 (d-5) Zero emission standard.

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

1 of 10 years ending May 31, 2027. The quantity of zero
2 emission credits to be procured under the contracts shall
3 be all of the zero emission credits generated by the zero
4 emission facility in each delivery year; however, if the
5 zero emission facility is owned by more than one entity,
6 then the quantity of zero emission credits to be procured
7 under the contracts shall be the amount of zero emission
8 credits that are generated from the portion of the zero
9 emission facility that is owned by the winning supplier.

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

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

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

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

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

1 emission facility, which shall be used to
2 determine the capability of each facility;

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

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

25 The information described in item (iii) of this
26 subparagraph (A) may be submitted on a confidential

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

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

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

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

1 Operator, Inc., divided by 24 hours per day.

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

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

21 (bb) Projected capacity prices:

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

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

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

1 cleared for Local Resource Zone 4, divided
2 by 24 hours per day, and where such price
3 is determined by the Midcontinent
4 Independent System Operator, Inc.

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

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

9 "RTO" means regional transmission
10 organization.

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

1 would cease to exist if the procurements were not
2 held, including the preservation of zero emission
3 facilities. The plan shall also describe in detail how
4 each public interest factor shall be considered and
5 weighted in the bid selection process to ensure that
6 the public interest criteria are applied to the
7 procurement and given full effect.

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

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

1 procurement plan with the Commission.

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

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

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

24 (ii) specifically address how the selection of
25 winning bids takes into account the incremental
26 environmental benefits resulting from the

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

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

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

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

25 (I) the price, or if there is more
26 than one price, the average of the prices,

1 paid for renewable energy credits from new
2 utility-scale wind projects in the
3 procurement events specified in item (i)
4 of subparagraph (G) of paragraph (1) of
5 subsection (c) of this Section; and

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

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

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

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

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

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

26 (i) A zero emission facility shall be excused

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

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

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

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

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

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

1 termination election if such termination is consistent
2 with the provisions of this subsection (d-5).

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

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

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

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

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

25 For purposes of this Section, the Average ZEC Payment
26 shall be calculated by multiplying the quantity of zero

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

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

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

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

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

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

24 (6) Electric utilities shall be entitled to recover
25 all of the costs associated with the procurement of zero
26 emission credits through an automatic adjustment clause

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

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

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

12 (1) The General Assembly finds:

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

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

26 (C) The General Assembly finds that nuclear power

1 generation is necessary for the State's transition to 100%
2 clean energy, and ensuring continued operation of nuclear
3 plants advances environmental and public health interests
4 through providing carbon-free electricity while reducing
5 the air pollution profile of the Illinois energy
6 generation fleet.

7 (D) The clean energy attributes of nuclear generation
8 facilities support the State in its efforts to achieve
9 100% clean energy.

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

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

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

1 Illinois residents.

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

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

16 (2) As used in this subsection:

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

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

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

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

12 (3) Procurement.

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

25 (B) Each carbon-free energy resource that intends to
26 participate in a procurement shall be required to submit

1 to the Agency the following information for the resource
2 on or before the date established by the Agency:

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (aa) the weighted-average hourly day-ahead

1 price for the applicable delivery year at the
2 busbar of all resources procured pursuant to
3 this subsection (d-10), weighted by actual
4 production from the resources; or

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

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

26 (III) any value of monetized federal tax

1 credits, direct payments, or similar subsidy
2 provided to the carbon-free energy resource from
3 any unit of government that is not already
4 reflected in energy prices.

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

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

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

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

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

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

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

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

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

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

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

1 during the time period between 2022 and 2027.
2 Therefore, the sale of carbon mitigation credits
3 provides the opportunity to receive an additional
4 amount per megawatt-hour in addition to the projected
5 prices for energy and capacity.

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

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

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

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

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

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

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

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

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

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

1 Act, and the additional storage necessary to
2 produce the same or similar capability of matching
3 customer usage patterns.

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

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

26 (G) The counterparty electric utility shall retire all

1 carbon mitigation credits used to comply with the
2 requirements of this subsection (d-10).

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

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

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

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

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

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

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

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

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

10 (20 ILCS 3855/1-129 new)

11 Sec. 1-129. Policy study.

12 (a) The General Assembly finds that:

13 (1) in 2021, Illinois became the first state in the
14 Midwest to mandate a clean energy future when it enacted
15 the Climate and Equitable Jobs Act (Public Act 102-662);

16 (2) through the Climate and Equitable Jobs Act,
17 Illinois established a plan to completely decarbonize its
18 energy sector by 2050 in an equitable manner that invests
19 in the State's workforce;

20 (3) technology in the energy sector continues to
21 advance creating cleaner and more efficient options to
22 help the State attain the target of 50% renewable energy
23 by 2040; and

24 (4) while numerous legislative proposals purport to
25 help the State on its path to equitably attain 100% clean

1 energy, it is important to have a neutral party with
2 relevant expertise evaluate each proposal to ensure it is
3 consistent with the State's goals and maximizes benefits
4 to Illinois residents.

5 (b) The General Assembly intends:

6 (1) to prioritize the public interest over the profit
7 motives of utilities and private developers; and

8 (2) to invest in projects that reduce harmful
9 emissions and contribute to the clean economy.

10 (c) The Agency shall commission and publish a policy study
11 to evaluate the potential impacts of the proposals described
12 in subsection (g). The potential impacts may include, but are
13 not limited to, support for Illinois' decarbonization goals,
14 the environment, grid reliability, carbon and other pollutant
15 emissions, resource adequacy, long-term and short-term
16 electric rates, environmental justice communities, jobs, and
17 the economy. Where applicable, the study shall address the
18 impact of a proposal with respect to reports by the
19 Midcontinent Independent System Operator, PJM, and North
20 American Electric Reliability Corporation staff that Illinois
21 has begun to experience resource adequacy issues.

22 (d) The Agency shall retain the services of technical and
23 policy experts with energy market and other relevant fields of
24 expertise. The technical and policy experts may include the
25 existing planning and procurement consultant and applicable
26 subcontractors and the procurement administrator and

1 applicable subcontractors. The Illinois Commerce Commission,
2 the Illinois Environmental Protection Agency, and the
3 Department of Commerce and Economic Opportunity shall provide
4 support to and consult with the Agency. The Agency may consult
5 with other State agencies, commissions, or task forces as
6 needed. The Agency may consult with and seek assistance from
7 the Regional Transmission Organizations PJM and MISO.

8 (e) The Agency may solicit information, including
9 confidential or proprietary information, from entities likely
10 to be impacted by the proposals described in subsection (g)
11 for purposes of this study. Any information designated as
12 confidential or proprietary information by the entity
13 providing the information shall be kept confidential by the
14 Agency, its consultants, and its contractors and is not
15 subject to disclosure under the Freedom of Information Act.

16 (f) The Agency shall publish a final policy study no later
17 than March 1, 2024 and suitable copies shall be delivered to
18 the Governor and members of the General Assembly. Prior to
19 publishing the final policy study, the Agency shall publish a
20 preliminary draft of the policy study and provide for a 20-day
21 open public comment period. The Agency shall review public
22 comments and publish a final policy study no later than 20 days
23 after the public comment period ends. The policy study shall
24 include policy recommendations to the General Assembly.

25 (g) The policy study shall evaluate the following
26 proposals and may consider or suggest additional or

1 alternative items:

2 (1) House Bill 2132 of the 103rd General Assembly as
3 it passed out of the House on March 24, 2023 or a similar
4 pilot program to establish one new utility-scale offshore
5 wind project capable of producing at least 700,000
6 megawatt hours annually for at least 20 years in Lake
7 Michigan that includes an equity and inclusion plan to
8 create job opportunities for underrepresented populations
9 in addition to equity investment eligible communities and
10 a fully executed project labor agreement. The pilot
11 program may result in an increase in the amounts paid by
12 eligible retail customers in connection with electric
13 service that shall not exceed 0.25% of the amount paid per
14 kilowatt hour by those customers during the year ending
15 May 31, 2009.

16 (2) Senate Bill 1587 and amendments to Senate Bill
17 1587 of the 103rd General Assembly filed prior to May 31,
18 2023 or a similar proposal for the deployment of energy
19 storage systems supported by the State through the
20 development of energy storage credit targets for the
21 Agency to procure on behalf of Illinois electric utilities
22 from privately owned, large scale energy storage providers
23 using energy storage contracts of at least 15 year
24 durations based on a competitive energy storage
25 procurement plan developed by the Agency designed to
26 enhance overall grid reliability, flexibility and

1 efficiency, and to lower electricity prices. The plan must
2 require participants to comply with the equity
3 accountability system requirements in subsection (c-10) of
4 Section 1-75 and to submit proof of project labor
5 agreements. For purposes of this policy study, it should
6 be assumed that the costs associated with procuring energy
7 storage credits shall be recovered through tariffed
8 charges assessed across all retail customers in a uniform
9 cents per kilowatt hour charge. In addition to large scale
10 energy storage, the proposal shall also include the
11 creation of distributed level energy storage programs
12 through utility tariffs as approved by the Illinois
13 Commerce Commission. The programs shall include a
14 residential and a commercial storage program that would
15 allow customer-sited batteries to provide grid benefits
16 and cost-savings to ratepayers. The proposal shall also
17 include a community solar energy storage program intended
18 to serve as a peak reduction program by utilizing
19 community solar paired storage projects deployed daily in
20 summer months during peak hours. The installation of the
21 energy storage systems associated with these distributed
22 renewable systems must comply with the prevailing wage
23 requirements described in subparagraph (Q) of paragraph
24 (1) of subsection (c) of Section 1-75. The policy study
25 shall include a review of the ability of coal-fueled
26 generating plant sites located in Illinois that have been

1 closed since 2016 or are scheduled to be closed by 2030 to
2 support the installation of energy storage systems and
3 potential associated interconnection costs. This review
4 shall include: (i) whether those sites are already in a
5 regional transmission organization interconnection queue,
6 including MISO's replacement power interconnection queue,
7 or would be submitted to the replacement power
8 interconnection queue no later than September 1, 2023,
9 and, if a site is in a queue, the site's position in the
10 queue; and (ii) how soon those sites could support
11 development and installation of energy storage systems and
12 any barriers to that development. This review shall also
13 include consultation with electric generation facility
14 owners or operators and renewable developers that own or
15 are in the process of developing energy storage systems in
16 Illinois or that have experience developing energy storage
17 systems in other States.

18 (3) A policy establishing high voltage direct current
19 renewable energy credits that requires the Agency to
20 procure contracts with at least 25 years but no more than
21 40 years duration for the delivery of renewable energy
22 credits on behalf of electric utilities in Illinois with
23 at least 300,000 customers from a high voltage direct
24 current transmission facility with more than 100 miles of
25 underground transmission lines in this State capable of
26 transmitting electricity at or above 525 kilovolts and

1 delivering power in the PJM market. High voltage direct
2 current renewable energy credits procured by the Agency
3 pursuant to this policy would not count toward the
4 renewable energy credit purchase targets in subsection (c)
5 of Section 1-75. The study shall also evaluate: (i) this
6 policy's potential for wholesale electricity price impacts
7 in both PJM and MISO, the net rate impact to Illinois
8 ratepayers, and the impact on grid reliability and
9 resilience; (ii) whether a 25-year to 40-year guaranteed
10 contract is necessary to build a high voltage direct
11 current transmission facility; (iii) whether specific high
12 voltage direct current transmission facility projects are
13 committed to Illinois' fair labor and equity standards;
14 and (iv) whether the policy creates incentives for
15 renewable development outside of Illinois rather than
16 within the State.

17 Section 15. The Illinois Procurement Code is amended by
18 changing Section 1-10 as follows:

19 (30 ILCS 500/1-10)

20 Sec. 1-10. Application.

21 (a) This Code applies only to procurements for which
22 bidders, offerors, potential contractors, or contractors were
23 first solicited on or after July 1, 1998. This Code shall not
24 be construed to affect or impair any contract, or any

1 provision of a contract, entered into based on a solicitation
2 prior to the implementation date of this Code as described in
3 Article 99, including, but not limited to, any covenant
4 entered into with respect to any revenue bonds or similar
5 instruments. All procurements for which contracts are
6 solicited between the effective date of Articles 50 and 99 and
7 July 1, 1998 shall be substantially in accordance with this
8 Code and its intent.

9 (b) This Code shall apply regardless of the source of the
10 funds with which the contracts are paid, including federal
11 assistance moneys. This Code shall not apply to:

12 (1) Contracts between the State and its political
13 subdivisions or other governments, or between State
14 governmental bodies, except as specifically provided in
15 this Code.

16 (2) Grants, except for the filing requirements of
17 Section 20-80.

18 (3) Purchase of care, except as provided in Section
19 5-30.6 of the Illinois Public Aid Code and this Section.

20 (4) Hiring of an individual as an employee and not as
21 an independent contractor, whether pursuant to an
22 employment code or policy or by contract directly with
23 that individual.

24 (5) Collective bargaining contracts.

25 (6) Purchase of real estate, except that notice of
26 this type of contract with a value of more than \$25,000

1 must be published in the Procurement Bulletin within 10
2 calendar days after the deed is recorded in the county of
3 jurisdiction. The notice shall identify the real estate
4 purchased, the names of all parties to the contract, the
5 value of the contract, and the effective date of the
6 contract.

7 (7) Contracts necessary to prepare for anticipated
8 litigation, enforcement actions, or investigations,
9 provided that the chief legal counsel to the Governor
10 shall give his or her prior approval when the procuring
11 agency is one subject to the jurisdiction of the Governor,
12 and provided that the chief legal counsel of any other
13 procuring entity subject to this Code shall give his or
14 her prior approval when the procuring entity is not one
15 subject to the jurisdiction of the Governor.

16 (8) (Blank).

17 (9) Procurement expenditures by the Illinois
18 Conservation Foundation when only private funds are used.

19 (10) (Blank).

20 (11) Public-private agreements entered into according
21 to the procurement requirements of Section 20 of the
22 Public-Private Partnerships for Transportation Act and
23 design-build agreements entered into according to the
24 procurement requirements of Section 25 of the
25 Public-Private Partnerships for Transportation Act.

26 (12) (A) Contracts for legal, financial, and other

1 professional and artistic services entered into by the
2 Illinois Finance Authority in which the State of Illinois
3 is not obligated. Such contracts shall be awarded through
4 a competitive process authorized by the members of the
5 Illinois Finance Authority and are subject to Sections
6 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of this Code,
7 as well as the final approval by the members of the
8 Illinois Finance Authority of the terms of the contract.

9 (B) Contracts for legal and financial services entered
10 into by the Illinois Housing Development Authority in
11 connection with the issuance of bonds in which the State
12 of Illinois is not obligated. Such contracts shall be
13 awarded through a competitive process authorized by the
14 members of the Illinois Housing Development Authority and
15 are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35,
16 and 50-37 of this Code, as well as the final approval by
17 the members of the Illinois Housing Development Authority
18 of the terms of the contract.

19 (13) Contracts for services, commodities, and
20 equipment to support the delivery of timely forensic
21 science services in consultation with and subject to the
22 approval of the Chief Procurement Officer as provided in
23 subsection (d) of Section 5-4-3a of the Unified Code of
24 Corrections, except for the requirements of Sections
25 20-60, 20-65, 20-70, and 20-160 and Article 50 of this
26 Code; however, the Chief Procurement Officer may, in

1 writing with justification, waive any certification
2 required under Article 50 of this Code. For any contracts
3 for services which are currently provided by members of a
4 collective bargaining agreement, the applicable terms of
5 the collective bargaining agreement concerning
6 subcontracting shall be followed.

7 On and after January 1, 2019, this paragraph (13),
8 except for this sentence, is inoperative.

9 (14) Contracts for participation expenditures required
10 by a domestic or international trade show or exhibition of
11 an exhibitor, member, or sponsor.

12 (15) Contracts with a railroad or utility that
13 requires the State to reimburse the railroad or utilities
14 for the relocation of utilities for construction or other
15 public purpose. Contracts included within this paragraph
16 (15) shall include, but not be limited to, those
17 associated with: relocations, crossings, installations,
18 and maintenance. For the purposes of this paragraph (15),
19 "railroad" means any form of non-highway ground
20 transportation that runs on rails or electromagnetic
21 guideways and "utility" means: (1) public utilities as
22 defined in Section 3-105 of the Public Utilities Act, (2)
23 telecommunications carriers as defined in Section 13-202
24 of the Public Utilities Act, (3) electric cooperatives as
25 defined in Section 3.4 of the Electric Supplier Act, (4)
26 telephone or telecommunications cooperatives as defined in

1 Section 13-212 of the Public Utilities Act, (5) rural
2 water or waste water systems with 10,000 connections or
3 less, (6) a holder as defined in Section 21-201 of the
4 Public Utilities Act, and (7) municipalities owning or
5 operating utility systems consisting of public utilities
6 as that term is defined in Section 11-117-2 of the
7 Illinois Municipal Code.

8 (16) Procurement expenditures necessary for the
9 Department of Public Health to provide the delivery of
10 timely newborn screening services in accordance with the
11 Newborn Metabolic Screening Act.

12 (17) Procurement expenditures necessary for the
13 Department of Agriculture, the Department of Financial and
14 Professional Regulation, the Department of Human Services,
15 and the Department of Public Health to implement the
16 Compassionate Use of Medical Cannabis Program and Opioid
17 Alternative Pilot Program requirements and ensure access
18 to medical cannabis for patients with debilitating medical
19 conditions in accordance with the Compassionate Use of
20 Medical Cannabis Program Act.

21 (18) This Code does not apply to any procurements
22 necessary for the Department of Agriculture, the
23 Department of Financial and Professional Regulation, the
24 Department of Human Services, the Department of Commerce
25 and Economic Opportunity, and the Department of Public
26 Health to implement the Cannabis Regulation and Tax Act if

1 the applicable agency has made a good faith determination
2 that it is necessary and appropriate for the expenditure
3 to fall within this exemption and if the process is
4 conducted in a manner substantially in accordance with the
5 requirements of Sections 20-160, 25-60, 30-22, 50-5,
6 50-10, 50-10.5, 50-12, 50-13, 50-15, 50-20, 50-21, 50-35,
7 50-36, 50-37, 50-38, and 50-50 of this Code; however, for
8 Section 50-35, compliance applies only to contracts or
9 subcontracts over \$100,000. Notice of each contract
10 entered into under this paragraph (18) that is related to
11 the procurement of goods and services identified in
12 paragraph (1) through (9) of this subsection shall be
13 published in the Procurement Bulletin within 14 calendar
14 days after contract execution. The Chief Procurement
15 Officer shall prescribe the form and content of the
16 notice. Each agency shall provide the Chief Procurement
17 Officer, on a monthly basis, in the form and content
18 prescribed by the Chief Procurement Officer, a report of
19 contracts that are related to the procurement of goods and
20 services identified in this subsection. At a minimum, this
21 report shall include the name of the contractor, a
22 description of the supply or service provided, the total
23 amount of the contract, the term of the contract, and the
24 exception to this Code utilized. A copy of any or all of
25 these contracts shall be made available to the Chief
26 Procurement Officer immediately upon request. The Chief

1 Procurement Officer shall submit a report to the Governor
2 and General Assembly no later than November 1 of each year
3 that includes, at a minimum, an annual summary of the
4 monthly information reported to the Chief Procurement
5 Officer. This exemption becomes inoperative 5 years after
6 June 25, 2019 (the effective date of Public Act 101-27).

7 (19) Acquisition of modifications or adjustments,
8 limited to assistive technology devices and assistive
9 technology services, adaptive equipment, repairs, and
10 replacement parts to provide reasonable accommodations (i)
11 that enable a qualified applicant with a disability to
12 complete the job application process and be considered for
13 the position such qualified applicant desires, (ii) that
14 modify or adjust the work environment to enable a
15 qualified current employee with a disability to perform
16 the essential functions of the position held by that
17 employee, (iii) to enable a qualified current employee
18 with a disability to enjoy equal benefits and privileges
19 of employment as are enjoyed by other similarly situated
20 employees without disabilities, and (iv) that allow a
21 customer, client, claimant, or member of the public
22 seeking State services full use and enjoyment of and
23 access to its programs, services, or benefits.

24 For purposes of this paragraph (19):

25 "Assistive technology devices" means any item, piece
26 of equipment, or product system, whether acquired

1 commercially off the shelf, modified, or customized, that
2 is used to increase, maintain, or improve functional
3 capabilities of individuals with disabilities.

4 "Assistive technology services" means any service that
5 directly assists an individual with a disability in
6 selection, acquisition, or use of an assistive technology
7 device.

8 "Qualified" has the same meaning and use as provided
9 under the federal Americans with Disabilities Act when
10 describing an individual with a disability.

11 (20) Procurement expenditures necessary for the
12 Illinois Commerce Commission to hire third-party
13 facilitators pursuant to Sections 16-105.17 and 16-108.18
14 of the Public Utilities Act or an ombudsman pursuant to
15 Section 16-107.5 of the Public Utilities Act, a
16 facilitator pursuant to Section 16-105.17 of the Public
17 Utilities Act, or a grid auditor pursuant to Section
18 16-105.10 of the Public Utilities Act.

19 (21) Procurement expenditures for the purchase,
20 renewal, and expansion of software, software licenses, or
21 software maintenance agreements that support the efforts
22 of the Illinois State Police to enforce, regulate, and
23 administer the Firearm Owners Identification Card Act, the
24 Firearm Concealed Carry Act, the Firearms Restraining
25 Order Act, the Firearm Dealer License Certification Act,
26 the Law Enforcement Agencies Data System (LEADS), the

1 Uniform Crime Reporting Act, the Criminal Identification
2 Act, the Illinois Uniform Conviction Information Act, and
3 the Gun Trafficking Information Act, or establish or
4 maintain record management systems necessary to conduct
5 human trafficking investigations or gun trafficking or
6 other stolen firearm investigations. This paragraph (21)
7 applies to contracts entered into on or after January 10,
8 2023 (the effective date of Public Act 102-1116) ~~this~~
9 ~~amendatory Act of the 102nd General Assembly~~ and the
10 renewal of contracts that are in effect on January 10,
11 2023 (the effective date of Public Act 102-1116) ~~this~~
12 ~~amendatory Act of the 102nd General Assembly~~.

13 (22) Contracts for project management services and
14 system integration services required for the completion of
15 the State's enterprise resource planning project. This
16 exemption becomes inoperative 5 years after June 7, 2023
17 (the effective date of the changes made to this Section by
18 Public Act 103-8) ~~this amendatory Act of the 103rd General~~
19 ~~Assembly~~. This paragraph (22) applies to contracts entered
20 into on or after June 7, 2023 (the effective date of the
21 changes made to this Section by Public Act 103-8) ~~this~~
22 ~~amendatory Act of the 103rd General Assembly~~ and the
23 renewal of contracts that are in effect on June 7, 2023
24 (the effective date of the changes made to this Section by
25 Public Act 103-8) ~~this amendatory Act of the 103rd General~~
26 ~~Assembly~~.

1 (23) ~~(22)~~ Procurements necessary for the Department of
2 Insurance to implement the Illinois Health Benefits
3 Exchange Law if the Department of Insurance has made a
4 good faith determination that it is necessary and
5 appropriate for the expenditure to fall within this
6 exemption. The procurement process shall be conducted in a
7 manner substantially in accordance with the requirements
8 of Sections 20-160 and 25-60 and Article 50 of this Code. A
9 copy of these contracts shall be made available to the
10 Chief Procurement Officer immediately upon request. This
11 paragraph is inoperative 5 years after June 27, 2023 (the
12 effective date of Public Act 103-103) ~~this amendatory Act~~
13 ~~of the 103rd General Assembly.~~

14 Notwithstanding any other provision of law, for contracts
15 with an annual value of more than \$100,000 entered into on or
16 after October 1, 2017 under an exemption provided in any
17 paragraph of this subsection (b), except paragraph (1), (2),
18 or (5), each State agency shall post to the appropriate
19 procurement bulletin the name of the contractor, a description
20 of the supply or service provided, the total amount of the
21 contract, the term of the contract, and the exception to the
22 Code utilized. The chief procurement officer shall submit a
23 report to the Governor and General Assembly no later than
24 November 1 of each year that shall include, at a minimum, an
25 annual summary of the monthly information reported to the
26 chief procurement officer.

1 (c) This Code does not apply to the electric power
2 procurement process provided for under Section 1-75 of the
3 Illinois Power Agency Act and Section 16-111.5 of the Public
4 Utilities Act. This Code does not apply to the procurement of
5 technical and policy experts pursuant to Section 1-129 of the
6 Illinois Power Agency Act.

7 (d) Except for Section 20-160 and Article 50 of this Code,
8 and as expressly required by Section 9.1 of the Illinois
9 Lottery Law, the provisions of this Code do not apply to the
10 procurement process provided for under Section 9.1 of the
11 Illinois Lottery Law.

12 (e) This Code does not apply to the process used by the
13 Capital Development Board to retain a person or entity to
14 assist the Capital Development Board with its duties related
15 to the determination of costs of a clean coal SNG brownfield
16 facility, as defined by Section 1-10 of the Illinois Power
17 Agency Act, as required in subsection (h-3) of Section 9-220
18 of the Public Utilities Act, including calculating the range
19 of capital costs, the range of operating and maintenance
20 costs, or the sequestration costs or monitoring the
21 construction of clean coal SNG brownfield facility for the
22 full duration of construction.

23 (f) (Blank).

24 (g) (Blank).

25 (h) This Code does not apply to the process to procure or
26 contracts entered into in accordance with Sections 11-5.2 and

1 11-5.3 of the Illinois Public Aid Code.

2 (i) Each chief procurement officer may access records
3 necessary to review whether a contract, purchase, or other
4 expenditure is or is not subject to the provisions of this
5 Code, unless such records would be subject to attorney-client
6 privilege.

7 (j) This Code does not apply to the process used by the
8 Capital Development Board to retain an artist or work or works
9 of art as required in Section 14 of the Capital Development
10 Board Act.

11 (k) This Code does not apply to the process to procure
12 contracts, or contracts entered into, by the State Board of
13 Elections or the State Electoral Board for hearing officers
14 appointed pursuant to the Election Code.

15 (l) This Code does not apply to the processes used by the
16 Illinois Student Assistance Commission to procure supplies and
17 services paid for from the private funds of the Illinois
18 Prepaid Tuition Fund. As used in this subsection (l), "private
19 funds" means funds derived from deposits paid into the
20 Illinois Prepaid Tuition Trust Fund and the earnings thereon.

21 (m) This Code shall apply regardless of the source of
22 funds with which contracts are paid, including federal
23 assistance moneys. Except as specifically provided in this
24 Code, this Code shall not apply to procurement expenditures
25 necessary for the Department of Public Health to conduct the
26 Healthy Illinois Survey in accordance with Section 2310-431 of

1 the Department of Public Health Powers and Duties Law of the
2 Civil Administrative Code of Illinois.

3 (Source: P.A. 102-175, eff. 7-29-21; 102-483, eff. 1-1-22;
4 102-558, eff. 8-20-21; 102-600, eff. 8-27-21; 102-662, eff.
5 9-15-21; 102-721, eff. 1-1-23; 102-813, eff. 5-13-22;
6 102-1116, eff. 1-10-23; 103-8, eff. 6-7-23; 103-103, eff.
7 6-27-23; revised 9-5-23.)

8 Section 20. The Counties Code is amended by changing
9 Section 5-12020 as follows:

10 (55 ILCS 5/5-12020)

11 Sec. 5-12020. Commercial wind energy facilities and
12 commercial solar energy facilities.

13 (a) As used in this Section:

14 "Commercial solar energy facility" means a "commercial
15 solar energy system" as defined in Section 10-720 of the
16 Property Tax Code. "Commercial solar energy facility" does not
17 mean a utility-scale solar energy facility being constructed
18 at a site that was eligible to participate in a procurement
19 event conducted by the Illinois Power Agency pursuant to
20 subsection (c-5) of Section 1-75 of the Illinois Power Agency
21 Act.

22 "Commercial wind energy facility" means a wind energy
23 conversion facility of equal or greater than 500 kilowatts in
24 total nameplate generating capacity. "Commercial wind energy

1 facility" includes a wind energy conversion facility seeking
2 an extension of a permit to construct granted by a county or
3 municipality before January 27, 2023 (the effective date of
4 Public Act 102-1123) ~~this amendatory Act of the 102nd General~~
5 ~~Assembly.~~

6 "Facility owner" means (i) a person with a direct
7 ownership interest in a commercial wind energy facility or a
8 commercial solar energy facility, or both, regardless of
9 whether the person is involved in acquiring the necessary
10 rights, permits, and approvals or otherwise planning for the
11 construction and operation of the facility, and (ii) at the
12 time the facility is being developed, a person who is acting as
13 a developer of the facility by acquiring the necessary rights,
14 permits, and approvals or by planning for the construction and
15 operation of the facility, regardless of whether the person
16 will own or operate the facility.

17 "Nonparticipating property" means real property that is
18 not a participating property.

19 "Nonparticipating residence" means a residence that is
20 located on nonparticipating property and that is existing and
21 occupied on the date that an application for a permit to
22 develop the commercial wind energy facility or the commercial
23 solar energy facility is filed with the county.

24 "Occupied community building" means any one or more of the
25 following buildings that is existing and occupied on the date
26 that the application for a permit to develop the commercial

1 wind energy facility or the commercial solar energy facility
2 is filed with the county: a school, place of worship, day care
3 facility, public library, or community center.

4 "Participating property" means real property that is the
5 subject of a written agreement between a facility owner and
6 the owner of the real property that provides the facility
7 owner an easement, option, lease, or license to use the real
8 property for the purpose of constructing a commercial wind
9 energy facility, a commercial solar energy facility, or
10 supporting facilities. "Participating property" also includes
11 real property that is owned by a facility owner for the purpose
12 of constructing a commercial wind energy facility, a
13 commercial solar energy facility, or supporting facilities.

14 "Participating residence" means a residence that is
15 located on participating property and that is existing and
16 occupied on the date that an application for a permit to
17 develop the commercial wind energy facility or the commercial
18 solar energy facility is filed with the county.

19 "Protected lands" means real property that is:

20 (1) subject to a permanent conservation right
21 consistent with the Real Property Conservation Rights Act;
22 or

23 (2) registered or designated as a nature preserve,
24 buffer, or land and water reserve under the Illinois
25 Natural Areas Preservation Act.

26 "Supporting facilities" means the transmission lines,

1 substations, access roads, meteorological towers, storage
2 containers, and equipment associated with the generation and
3 storage of electricity by the commercial wind energy facility
4 or commercial solar energy facility.

5 "Wind tower" includes the wind turbine tower, nacelle, and
6 blades.

7 (b) Notwithstanding any other provision of law or whether
8 the county has formed a zoning commission and adopted formal
9 zoning under Section 5-12007, a county may establish standards
10 for commercial wind energy facilities, commercial solar energy
11 facilities, or both. The standards may include all of the
12 requirements specified in this Section but may not include
13 requirements for commercial wind energy facilities or
14 commercial solar energy facilities that are more restrictive
15 than specified in this Section. A county may also regulate the
16 siting of commercial wind energy facilities with standards
17 that are not more restrictive than the requirements specified
18 in this Section in unincorporated areas of the county that are
19 outside the zoning jurisdiction of a municipality and that are
20 outside the 1.5-mile radius surrounding the zoning
21 jurisdiction of a municipality.

22 (c) If a county has elected to establish standards under
23 subsection (b), before the county grants siting approval or a
24 special use permit for a commercial wind energy facility or a
25 commercial solar energy facility, or modification of an
26 approved siting or special use permit, the county board of the

1 county in which the facility is to be sited or the zoning board
2 of appeals for the county shall hold at least one public
3 hearing. The public hearing shall be conducted in accordance
4 with the Open Meetings Act and shall be held not more than 60
5 ~~45~~ days after the filing of the application for the facility.
6 The county shall allow interested parties to a special use
7 permit an opportunity to present evidence and to cross-examine
8 witnesses at the hearing, but the county may impose reasonable
9 restrictions on the public hearing, including reasonable time
10 limitations on the presentation of evidence and the
11 cross-examination of witnesses. The county shall also allow
12 public comment at the public hearing in accordance with the
13 Open Meetings Act. The county shall make its siting and
14 permitting decisions not more than 30 days after the
15 conclusion of the public hearing. Notice of the hearing shall
16 be published in a newspaper of general circulation in the
17 county. A facility owner must enter into an agricultural
18 impact mitigation agreement with the Department of Agriculture
19 prior to the date of the required public hearing. A commercial
20 wind energy facility owner seeking an extension of a permit
21 granted by a county prior to July 24, 2015 (the effective date
22 of Public Act 99-132) must enter into an agricultural impact
23 mitigation agreement with the Department of Agriculture prior
24 to a decision by the county to grant the permit extension.
25 Counties may allow test wind towers or test solar energy
26 systems to be sited without formal approval by the county

1 board.

2 (d) A county with an existing zoning ordinance in conflict
3 with this Section shall amend that zoning ordinance to be in
4 compliance with this Section within 120 days after January 27,
5 2023 (the effective date of Public Act 102-1123) ~~this~~
6 ~~amendatory Act of the 102nd General Assembly.~~

7 (e) A county may require:

8 (1) a wind tower of a commercial wind energy facility
9 to be sited as follows, with setback distances measured
10 from the center of the base of the wind tower:

11	Setback Description	Setback Distance
12	Occupied Community	2.1 times the maximum blade tip
13	Buildings	height of the wind tower to the
14		nearest point on the outside
15		wall of the structure
16	Participating Residences	1.1 times the maximum blade tip
17		height of the wind tower to the
18		nearest point on the outside
19		wall of the structure
20	Nonparticipating Residences	2.1 times the maximum blade tip
21		height of the wind tower to the
22		nearest point on the outside

1		wall of the structure
2	Boundary Lines of	None
3	Participating Property	
4	Boundary Lines of	1.1 times the maximum blade tip
5	Nonparticipating Property	height of the wind tower to the
6		nearest point on the property
7		line of the nonparticipating
8		property
9	Public Road Rights-of-Way	1.1 times the maximum blade tip
10		height of the wind tower
11		to the center point of the
12		public road right-of-way
13	Overhead Communication and	1.1 times the maximum blade tip
14	Electric Transmission	height of the wind tower to the
15	and Distribution Facilities	nearest edge of the property
16	(Not Including Overhead	line, easement, or
17	Utility Service Lines to	<u>right-of-way</u> right of way
18	Individual Houses or	containing the overhead line
19	Outbuildings)	
20	Overhead Utility Service	None
21	Lines to Individual	

1 Houses or Outbuildings

2 Fish and Wildlife Areas 2.1 times the maximum blade
 3 and Illinois Nature tip height of the wind tower
 4 Preserve Commission to the nearest point on the
 5 Protected Lands property line of the fish and
 6 wildlife area or protected
 7 land

8 This Section does not exempt or excuse compliance with
 9 electric facility clearances approved or required by the
 10 National Electrical Code, The National Electrical Safety
 11 Code, Illinois Commerce Commission, Federal Energy
 12 Regulatory Commission, and their designees or successors.

13 (2) a wind tower of a commercial wind energy facility
 14 to be sited so that industry standard computer modeling
 15 indicates that any occupied community building or
 16 nonparticipating residence will not experience more than
 17 30 hours per year of shadow flicker under planned
 18 operating conditions;

19 (3) a commercial solar energy facility to be sited as
 20 follows, with setback distances measured from the nearest
 21 edge of any component of the facility:

22 Setback Description Setback Distance

1	Occupied Community	150 feet from the nearest
2	Buildings and Dwellings on	point on the outside wall
3	Nonparticipating Properties	of the structure
4	Boundary Lines of	None
5	Participating Property	
6	Public Road Rights-of-Way	50 feet from the nearest
7		edge
8	Boundary Lines of	50 feet to the nearest
9	Nonparticipating Property	point on the property
10		line of the nonparticipating
11		property

12 (4) a commercial solar energy facility to be sited so
13 that the facility's perimeter is enclosed by fencing
14 having a height of at least 6 feet and no more than 25
15 feet; and

16 (5) a commercial solar energy facility to be sited so
17 that no component of a solar panel has a height of more
18 than 20 feet above ground when the solar energy facility's
19 arrays are at full tilt.

20 The requirements set forth in this subsection (e) may be
21 waived subject to the written consent of the owner of each
22 affected nonparticipating property.

1 (f) A county may not set a sound limitation for wind towers
2 in commercial wind energy facilities or any components in
3 commercial solar energy facilities ~~facility~~ that is more
4 restrictive than the sound limitations established by the
5 Illinois Pollution Control Board under 35 Ill. Adm. Code Parts
6 900, 901, and 910.

7 (g) A county may not place any restriction on the
8 installation or use of a commercial wind energy facility or a
9 commercial solar energy facility unless it adopts an ordinance
10 that complies with this Section. A county may not establish
11 siting standards for supporting facilities that preclude
12 development of commercial wind energy facilities or commercial
13 solar energy facilities.

14 A request for siting approval or a special use permit for a
15 commercial wind energy facility or a commercial solar energy
16 facility, or modification of an approved siting or special use
17 permit, shall be approved if the request is in compliance with
18 the standards and conditions imposed in this Act, the zoning
19 ordinance adopted consistent with this Code, and the
20 conditions imposed under State and federal statutes and
21 regulations.

22 (h) A county may not adopt zoning regulations that
23 disallow, permanently or temporarily, commercial wind energy
24 facilities or commercial solar energy facilities from being
25 developed or operated in any district zoned to allow
26 agricultural or industrial uses.

1 (i) A county may not require permit application fees for a
2 commercial wind energy facility or commercial solar energy
3 facility that are unreasonable. All application fees imposed
4 by the county shall be consistent with fees for projects in the
5 county with similar capital value and cost.

6 (j) Except as otherwise provided in this Section, a county
7 shall not require standards for construction, decommissioning,
8 or deconstruction of a commercial wind energy facility or
9 commercial solar energy facility or related financial
10 assurances that are more restrictive than those included in
11 the Department of Agriculture's standard wind farm
12 agricultural impact mitigation agreement, template 81818, or
13 standard solar agricultural impact mitigation agreement,
14 version 8.19.19, as applicable and in effect on December 31,
15 2022. The amount of any decommissioning payment shall be in
16 accordance with the financial assurance ~~limited to the cost~~
17 ~~identified in the decommissioning or deconstruction plan, as~~
18 ~~required by those agricultural impact mitigation agreements,~~
19 ~~minus the salvage value of the project.~~

20 (j-5) A commercial wind energy facility or a commercial
21 solar energy facility shall file a farmland drainage plan with
22 the county and impacted drainage districts outlining how
23 surface and subsurface drainage of farmland will be restored
24 during and following construction or deconstruction of the
25 facility. The plan is to be created independently by the
26 facility developer and shall include the location of any

1 potentially impacted drainage district facilities to the
2 extent this information is publicly available from the county
3 or the drainage district, plans to repair any subsurface
4 drainage affected during construction or deconstruction using
5 procedures outlined in the agricultural impact mitigation
6 agreement entered into by the commercial wind energy facility
7 owner or commercial solar energy facility owner, and
8 procedures for the repair and restoration of surface drainage
9 affected during construction or deconstruction. All surface
10 and subsurface damage shall be repaired as soon as reasonably
11 practicable.

12 (k) A county may not condition approval of a commercial
13 wind energy facility or commercial solar energy facility on a
14 property value guarantee and may not require a facility owner
15 to pay into a neighboring property devaluation escrow account.

16 (l) A county may require certain vegetative screening
17 surrounding a commercial wind energy facility or commercial
18 solar energy facility but may not require earthen berms or
19 similar structures.

20 (m) A county may set blade tip height limitations for wind
21 towers in commercial wind energy facilities but may not set a
22 blade tip height limitation that is more restrictive than the
23 height allowed under a Determination of No Hazard to Air
24 Navigation by the Federal Aviation Administration under 14 CFR
25 Part 77.

26 (n) A county may require that a commercial wind energy

1 facility owner or commercial solar energy facility owner
2 provide:

3 (1) the results and recommendations from consultation
4 with the Illinois Department of Natural Resources that are
5 obtained through the Ecological Compliance Assessment Tool
6 (EcoCAT) or a comparable successor tool; and

7 (2) the results of the United States Fish and Wildlife
8 Service's Information for Planning and Consulting
9 environmental review or a comparable successor tool that
10 is consistent with (i) the "U.S. Fish and Wildlife
11 Service's Land-Based Wind Energy Guidelines" and (ii) any
12 applicable United States Fish and Wildlife Service solar
13 wildlife guidelines that have been subject to public
14 review.

15 (o) A county may require a commercial wind energy facility
16 or commercial solar energy facility to adhere to the
17 recommendations provided by the Illinois Department of Natural
18 Resources in an EcoCAT natural resource review report under 17
19 Ill. ~~Adm. Admin.~~ Code Part 1075.

20 (p) A county may require a facility owner to:

21 (1) demonstrate avoidance of protected lands as
22 identified by the Illinois Department of Natural Resources
23 and the Illinois Nature Preserve Commission; or

24 (2) consider the recommendations of the Illinois
25 Department of Natural Resources for setbacks from
26 protected lands, including areas identified by the

1 Illinois Nature Preserve Commission.

2 (q) A county may require that a facility owner provide
3 evidence of consultation with the Illinois State Historic
4 Preservation Office to assess potential impacts on
5 State-registered historic sites under the Illinois State
6 Agency Historic Resources Preservation Act.

7 (r) To maximize community benefits, including, but not
8 limited to, reduced stormwater runoff, flooding, and erosion
9 at the ground mounted solar energy system, improved soil
10 health, and increased foraging habitat for game birds,
11 songbirds, and pollinators, a county may (1) require a
12 commercial solar energy facility owner to plant, establish,
13 and maintain for the life of the facility vegetative ground
14 cover, consistent with the goals of the Pollinator-Friendly
15 Solar Site Act and (2) require the submittal of a vegetation
16 management plan that is in compliance with the agricultural
17 impact mitigation agreement in the application to construct
18 and operate a commercial solar energy facility in the county
19 if the vegetative ground cover and vegetation management plan
20 comply with the requirements of the underlying agreement with
21 the landowner or landowners where the facility will be
22 constructed.

23 No later than 90 days after January 27, 2023 (the
24 effective date of Public Act 102-1123) ~~this amendatory Act of~~
25 ~~the 102nd General Assembly~~, the Illinois Department of Natural
26 Resources shall develop guidelines for vegetation management

1 plans that may be required under this subsection for
2 commercial solar energy facilities. The guidelines must
3 include guidance for short-term and long-term property
4 management practices that provide and maintain native and
5 non-invasive naturalized perennial vegetation to protect the
6 health and well-being of pollinators.

7 (s) If a facility owner enters into a road use agreement
8 with the Illinois Department of Transportation, a road
9 district, or other unit of local government relating to a
10 commercial wind energy facility or a commercial solar energy
11 facility, the road use agreement shall require the facility
12 owner to be responsible for (i) the reasonable cost of
13 improving roads used by the facility owner to construct the
14 commercial wind energy facility or the commercial solar energy
15 facility and (ii) the reasonable cost of repairing roads used
16 by the facility owner during construction of the commercial
17 wind energy facility or the commercial solar energy facility
18 so that those roads are in a condition that is safe for the
19 driving public after the completion of the facility's
20 construction. Roadways improved in preparation for and during
21 the construction of the commercial wind energy facility or
22 commercial solar energy facility shall be repaired and
23 restored to the improved condition at the reasonable cost of
24 the developer if the roadways have degraded or were damaged as
25 a result of construction-related activities.

26 The road use agreement shall not require the facility

1 owner to pay costs, fees, or charges for road work that is not
2 specifically and uniquely attributable to the construction of
3 the commercial wind energy facility or the commercial solar
4 energy facility. Road-related fees, permit fees, or other
5 charges imposed by the Illinois Department of Transportation,
6 a road district, or other unit of local government under a road
7 use agreement with the facility owner shall be reasonably
8 related to the cost of administration of the road use
9 agreement.

10 (s-5) The facility owner shall also compensate landowners
11 for crop losses or other agricultural damages resulting from
12 damage to the drainage system caused by the construction of
13 the commercial wind energy facility or the commercial solar
14 energy facility. The commercial wind energy facility owner or
15 commercial solar energy facility owner shall repair or pay for
16 the repair of all damage to the subsurface drainage system
17 caused by the construction of the commercial wind energy
18 facility or the commercial solar energy facility in accordance
19 with the agriculture impact mitigation agreement requirements
20 for repair of drainage. The commercial wind energy facility
21 owner or commercial solar energy facility owner shall repair
22 or pay for the repair and restoration of surface drainage
23 caused by the construction or deconstruction of the commercial
24 wind energy facility or the commercial solar energy facility
25 as soon as reasonably practicable.

26 (t) Notwithstanding any other provision of law, a facility

1 owner with siting approval from a county to construct a
2 commercial wind energy facility or a commercial solar energy
3 facility is authorized to cross or impact a drainage system,
4 including, but not limited to, drainage tiles, open drainage
5 ditches ~~districts~~, culverts, and water gathering vaults, owned
6 or under the control of a drainage district under the Illinois
7 Drainage Code without obtaining prior agreement or approval
8 from the drainage district in accordance with the farmland
9 drainage plan required by subsection (j-5), ~~except that the~~
10 ~~facility owner shall repair or pay for the repair of all damage~~
11 ~~to the drainage system caused by the construction of the~~
12 ~~commercial wind energy facility or the commercial solar energy~~
13 ~~facility within a reasonable time after construction of the~~
14 ~~commercial wind energy facility or the commercial solar energy~~
15 ~~facility is complete.~~

16 (u) The amendments to this Section adopted in Public Act
17 102-1123 do not apply to: (1) an application for siting
18 approval or for a special use permit for a commercial wind
19 energy facility or commercial solar energy facility if the
20 application was submitted to a unit of local government before
21 January 27, 2023 (the effective date of Public Act 102-1123)
22 ~~this amendatory Act of the 102nd General Assembly~~; (2) a
23 commercial wind energy facility or a commercial solar energy
24 facility if the facility owner has submitted an agricultural
25 impact mitigation agreement to the Department of Agriculture
26 before January 27, 2023 (the effective date of Public Act

1 ~~102-1123) this amendatory Act of the 102nd General Assembly;~~
2 or (3) a commercial wind energy or commercial solar energy
3 development on property that is located within an enterprise
4 zone certified under the Illinois Enterprise Zone Act, that
5 was classified as industrial by the appropriate zoning
6 authority on or before January 27, 2023, and that is located
7 within 4 miles of the intersection of Interstate 88 and
8 Interstate 39.

9 (Source: P.A. 102-1123, eff. 1-27-23; 103-81, eff. 6-9-23;
10 revised 9-25-23.)

11 Section 25. The Public Utilities Act is amended by adding
12 Section 4-610 as follows:

13 (220 ILCS 5/4-610 new)

14 Sec. 4-610. Thermal energy networks.

15 (a) The General Assembly finds that:

16 (1) the State has an interest in decarbonizing
17 buildings in a manner that is affordable and accessible,
18 preserves and creates living-wage jobs, and retains the
19 knowledge and experience of the existing utility
20 workforce;

21 (2) thermal energy networks have the potential to
22 affordably decarbonize buildings at the community-scale
23 and utility-scale and help achieve the goals of the
24 Climate and Equitable Jobs Act (Public Act 102-662);

1 (3) the construction industry is highly skilled and
2 labor intensive, and the installation of modern thermal
3 energy networks involves particularly complex work,
4 therefore effective qualification standards for craft
5 labor personnel employed on these projects are critically
6 needed to promote successful project delivery; and

7 (4) it is the intent of the General Assembly to
8 establish a stakeholder workshop within the Commission to
9 promote the successful planning and delivery of thermal
10 energy networks in an equitable manner that reduces
11 emissions, offers affordable building decarbonization, and
12 provides opportunities for employment with fair labor
13 standards and preapprenticeship and apprenticeship
14 programs.

15 (b) As used in this Section:

16 "Thermal energy" means piped noncombustible fluids used
17 for transferring heat into and out of buildings for the
18 purpose of reducing any resultant onsite greenhouse gas
19 emissions of all types of heating and cooling processes,
20 including, but not limited to, comfort heating and cooling,
21 domestic hot water, and refrigeration.

22 "Thermal energy network" means all real estate, fixtures,
23 and personal property operated, owned, used, or to be used
24 for, in connection with, or to facilitate a utility-scale
25 distribution infrastructure project that supplies thermal
26 energy.

1 (c) The Commission, in order to develop a regulatory
2 structure for utility thermal energy networks that scale with
3 affordable and accessible building electrification, protect
4 utility customers, and promote the successful planning and
5 delivery of thermal energy networks, shall convene a workshop
6 process for the purpose of establishing an open, inclusive,
7 and cooperative forum regarding such thermal energy networks.
8 The workshops may be facilitated by an independent,
9 third-party facilitator selected by the Commission. The series
10 of workshops shall include no fewer than 3 workshops. After
11 the conclusion of the workshops, the Commission shall open a
12 comment period that allows interested and diverse stakeholders
13 to submit comments and recommendations regarding the thermal
14 energy networks. Based on the workshop process and stakeholder
15 comments and recommendations offered verbally or in writing
16 during the workshops and in writing during the comment period
17 following the workshops, the Commission or, if applicable, the
18 independent third-party facilitator, shall prepare a report,
19 to be submitted to the Governor and the General Assembly no
20 later than March 1, 2024, describing the stakeholders,
21 discussions, proposals, and areas of consensus and
22 disagreement from the workshop process, and making
23 recommendations regarding thermal energy networks.

24 (d) The workshop shall be designed to achieve the
25 following objectives:

26 (1) determine appropriate ownership, market, and rate

1 structures for thermal energy networks and whether the
2 provision of thermal energy services by thermal network
3 energy providers is in the public interest;

4 (2) consider project designs that could maximize the
5 value of existing State energy efficiency and
6 weatherization programs and maximize federal funding
7 opportunities to the extent practicable;

8 (3) determine whether thermal energy network projects
9 further climate justice and emissions reductions and
10 benefits to utility customers and society at large,
11 including but not limited to public health benefits in
12 areas with disproportionate environmental burdens, job
13 retention and creation, reliability, and increased
14 affordability of renewable thermal energy options;

15 (4) consider approaches to thermal energy network
16 projects that advance financial and technical approaches
17 to equitable and affordable building electrification,
18 including access to thermal energy network benefits by low
19 and moderate income households; and

20 (5) consider approaches to promote the training and
21 transition of utility workers to work on thermal energy
22 networks.

23 Section 95. No acceleration or delay. Where this Act makes
24 changes in a statute that is represented in this Act by text
25 that is not yet or no longer in effect (for example, a Section

1 represented by multiple versions), the use of that text does
2 not accelerate or delay the taking effect of (i) the changes
3 made by this Act or (ii) provisions derived from any other
4 Public Act.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.