



Rep. Lawrence "Larry" Walsh, Jr.

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10300SB1699ham003

LRB103 27684 SPS 65074 a

1 AMENDMENT TO SENATE BILL 1699

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1699, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

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

7 (5 ILCS 140/7.5)

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

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

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

1           (c) Applications, related documents, and medical  
2 records received by the Experimental Organ Transplantation  
3 Procedures Board and any and all documents or other  
4 records prepared by the Experimental Organ Transplantation  
5 Procedures Board or its staff relating to applications it  
6 has received.

7           (d) Information and records held by the Department of  
8 Public Health and its authorized representatives relating  
9 to known or suspected cases of sexually transmissible  
10 disease or any information the disclosure of which is  
11 restricted under the Illinois Sexually Transmissible  
12 Disease Control Act.

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

15           (f) Firm performance evaluations under Section 55 of  
16 the Architectural, Engineering, and Land Surveying  
17 Qualifications Based Selection Act.

18           (g) Information the disclosure of which is restricted  
19 and exempted under Section 50 of the Illinois Prepaid  
20 Tuition Act.

21           (h) Information the disclosure of which is exempted  
22 under the State Officials and Employees Ethics Act, and  
23 records of any lawfully created State or local inspector  
24 general's office that would be exempt if created or  
25 obtained by an Executive Inspector General's office under  
26 that Act.

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

5           (j) Information and data concerning the distribution  
6 of surcharge moneys collected and remitted by carriers  
7 under the Emergency Telephone System Act.

8           (k) Law enforcement officer identification information  
9 or driver identification information compiled by a law  
10 enforcement agency or the Department of Transportation  
11 under Section 11-212 of the Illinois Vehicle Code.

12           (l) Records and information provided to a residential  
13 health care facility resident sexual assault and death  
14 review team or the Executive Council under the Abuse  
15 Prevention Review Team Act.

16           (m) Information provided to the predatory lending  
17 database created pursuant to Article 3 of the Residential  
18 Real Property Disclosure Act, except to the extent  
19 authorized under that Article.

20           (n) Defense budgets and petitions for certification of  
21 compensation and expenses for court appointed trial  
22 counsel as provided under Sections 10 and 15 of the  
23 Capital Crimes Litigation Act. This subsection (n) shall  
24 apply until the conclusion of the trial of the case, even  
25 if the prosecution chooses not to pursue the death penalty  
26 prior to trial or sentencing.

1           (o) Information that is prohibited from being  
2 disclosed under Section 4 of the Illinois Health and  
3 Hazardous Substances Registry Act.

4           (p) Security portions of system safety program plans,  
5 investigation reports, surveys, schedules, lists, data, or  
6 information compiled, collected, or prepared by or for the  
7 Department of Transportation under Sections 2705-300 and  
8 2705-616 of the Department of Transportation Law of the  
9 Civil Administrative Code of Illinois, the Regional  
10 Transportation Authority under Section 2.11 of the  
11 Regional Transportation Authority Act, or the St. Clair  
12 County Transit District under the Bi-State Transit Safety  
13 Act.

14           (q) Information prohibited from being disclosed by the  
15 Personnel Record Review Act.

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

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

20           (t) All identified or deidentified health information  
21 in the form of health data or medical records contained  
22 in, stored in, submitted to, transferred by, or released  
23 from the Illinois Health Information Exchange, and  
24 identified or deidentified health information in the form  
25 of health data and medical records of the Illinois Health  
26 Information Exchange in the possession of the Illinois

1 Health Information Exchange Office due to its  
2 administration of the Illinois Health Information  
3 Exchange. The terms "identified" and "deidentified" shall  
4 be given the same meaning as in the Health Insurance  
5 Portability and Accountability Act of 1996, Public Law  
6 104-191, or any subsequent amendments thereto, and any  
7 regulations promulgated thereunder.

8 (u) Records and information provided to an independent  
9 team of experts under the Developmental Disability and  
10 Mental Health Safety Act (also known as Brian's Law).

11 (v) Names and information of people who have applied  
12 for or received Firearm Owner's Identification Cards under  
13 the Firearm Owners Identification Card Act or applied for  
14 or received a concealed carry license under the Firearm  
15 Concealed Carry Act, unless otherwise authorized by the  
16 Firearm Concealed Carry Act; and databases under the  
17 Firearm Concealed Carry Act, records of the Concealed  
18 Carry Licensing Review Board under the Firearm Concealed  
19 Carry Act, and law enforcement agency objections under the  
20 Firearm Concealed Carry Act.

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

24 (w) Personally identifiable information which is  
25 exempted from disclosure under subsection (g) of Section  
26 19.1 of the Toll Highway Act.

1           (x) Information which is exempted from disclosure  
2 under Section 5-1014.3 of the Counties Code or Section  
3 8-11-21 of the Illinois Municipal Code.

4           (y) Confidential information under the Adult  
5 Protective Services Act and its predecessor enabling  
6 statute, the Elder Abuse and Neglect Act, including  
7 information about the identity and administrative finding  
8 against any caregiver of a verified and substantiated  
9 decision of abuse, neglect, or financial exploitation of  
10 an eligible adult maintained in the Registry established  
11 under Section 7.5 of the Adult Protective Services Act.

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

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

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

20           (cc) Recordings made under the Law Enforcement  
21 Officer-Worn Body Camera Act, except to the extent  
22 authorized under that Act.

23           (dd) Information that is prohibited from being  
24 disclosed under Section 45 of the Condominium and Common  
25 Interest Community Ombudsperson Act.

26           (ee) Information that is exempted from disclosure

1 under Section 30.1 of the Pharmacy Practice Act.

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

4 (gg) Information that is prohibited from being  
5 disclosed under Section 7-603.5 of the Illinois Vehicle  
6 Code.

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

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

12 (jj) Information and reports that are required to be  
13 submitted to the Department of Labor by registering day  
14 and temporary labor service agencies but are exempt from  
15 disclosure under subsection (a-1) of Section 45 of the Day  
16 and Temporary Labor Services Act.

17 (kk) Information prohibited from disclosure under the  
18 Seizure and Forfeiture Reporting Act.

19 (ll) Information the disclosure of which is restricted  
20 and exempted under Section 5-30.8 of the Illinois Public  
21 Aid Code.

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

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

26 (oo) Communications, notes, records, and reports

1 arising out of a peer support counseling session  
2 prohibited from disclosure under the First Responders  
3 Suicide Prevention Act.

4 (pp) Names and all identifying information relating to  
5 an employee of an emergency services provider or law  
6 enforcement agency under the First Responders Suicide  
7 Prevention Act.

8 (qq) Information and records held by the Department of  
9 Public Health and its authorized representatives collected  
10 under the Reproductive Health Act.

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

13 (ss) Data reported by an employer to the Department of  
14 Human Rights pursuant to Section 2-108 of the Illinois  
15 Human Rights Act.

16 (tt) Recordings made under the Children's Advocacy  
17 Center Act, except to the extent authorized under that  
18 Act.

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

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

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

26 (xx) Information that is exempt from disclosure or



1 information that shall not be made public under the  
2 Illinois Insurance Code.

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

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

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

9 (bbb) Information that is prohibited from disclosure  
10 by the Illinois Police Training Act and the Illinois State  
11 Police Act.

12 (ccc) Records exempt from disclosure under Section  
13 2605-304 of the Illinois State Police Law of the Civil  
14 Administrative Code of Illinois.

15 (ddd) Information prohibited from being disclosed  
16 under Section 35 of the Address Confidentiality for  
17 Victims of Domestic Violence, Sexual Assault, Human  
18 Trafficking, or Stalking Act.

19 (eee) Information prohibited from being disclosed  
20 under subsection (b) of Section 75 of the Domestic  
21 Violence Fatality Review Act.

22 (fff) Images from cameras under the Expressway Camera  
23 Act. This subsection (fff) is inoperative on and after  
24 July 1, 2023.

25 (ggg) Information prohibited from disclosure under  
26 paragraph (3) of subsection (a) of Section 14 of the Nurse

1 Agency Licensing Act.

2 (hhh) Information submitted to the Illinois Department  
3 ~~of~~ State Police in an affidavit or application for an  
4 assault weapon endorsement, assault weapon attachment  
5 endorsement, .50 caliber rifle endorsement, or .50 caliber  
6 cartridge endorsement under the Firearm Owners  
7 Identification Card Act.

8 (iii) Information prohibited from being disclosed  
9 under subsection (e) of Section 1-129 of the Illinois  
10 Power Agency Act.

11 (Source: P.A. 101-13, eff. 6-12-19; 101-27, eff. 6-25-19;  
12 101-81, eff. 7-12-19; 101-221, eff. 1-1-20; 101-236, eff.  
13 1-1-20; 101-375, eff. 8-16-19; 101-377, eff. 8-16-19; 101-452,  
14 eff. 1-1-20; 101-466, eff. 1-1-20; 101-600, eff. 12-6-19;  
15 101-620, eff. 12-20-19; 101-649, eff. 7-7-20; 101-652, eff.  
16 1-1-22; 101-656, eff. 3-23-21; 102-36, eff. 6-25-21; 102-237,  
17 eff. 1-1-22; 102-292, eff. 1-1-22; 102-520, eff. 8-20-21;  
18 102-559, eff. 8-20-21; 102-813, eff. 5-13-22; 102-946, eff.  
19 7-1-22; 102-1042, eff. 6-3-22; 102-1116, eff. 1-10-23; revised  
20 2-13-23.)

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

23 (20 ILCS 3855/1-75)

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

1           Sec. 1-75. Planning and Procurement Bureau. The Planning  
2 and Procurement Bureau has the following duties and  
3 responsibilities:

4           (a) The Planning and Procurement Bureau shall each year,  
5 beginning in 2008, develop procurement plans and conduct  
6 competitive procurement processes in accordance with the  
7 requirements of Section 16-111.5 of the Public Utilities Act  
8 for the eligible retail customers of electric utilities that  
9 on December 31, 2005 provided electric service to at least  
10 100,000 customers in Illinois. Beginning with the delivery  
11 year commencing on June 1, 2017, the Planning and Procurement  
12 Bureau shall develop plans and processes for the procurement  
13 of zero emission credits from zero emission facilities in  
14 accordance with the requirements of subsection (d-5) of this  
15 Section. Beginning on the effective date of this amendatory  
16 Act of the 102nd General Assembly, the Planning and  
17 Procurement Bureau shall develop plans and processes for the  
18 procurement of carbon mitigation credits from carbon-free  
19 energy resources in accordance with the requirements of  
20 subsection (d-10) of this Section. The Planning and  
21 Procurement Bureau shall also develop procurement plans and  
22 conduct competitive procurement processes in accordance with  
23 the requirements of Section 16-111.5 of the Public Utilities  
24 Act for the eligible retail customers of small  
25 multi-jurisdictional electric utilities that (i) on December  
26 31, 2005 served less than 100,000 customers in Illinois and

1 (ii) request a procurement plan for their Illinois  
2 jurisdictional load. This Section shall not apply to a small  
3 multi-jurisdictional utility until such time as a small  
4 multi-jurisdictional utility requests the Agency to prepare a  
5 procurement plan for their Illinois jurisdictional load. For  
6 the purposes of this Section, the term "eligible retail  
7 customers" has the same definition as found in Section  
8 16-111.5(a) of the Public Utilities Act.

9 Beginning with the plan or plans to be implemented in the  
10 2017 delivery year, the Agency shall no longer include the  
11 procurement of renewable energy resources in the annual  
12 procurement plans required by this subsection (a), except as  
13 provided in subsection (q) of Section 16-111.5 of the Public  
14 Utilities Act, and shall instead develop a long-term renewable  
15 resources procurement plan in accordance with subsection (c)  
16 of this Section and Section 16-111.5 of the Public Utilities  
17 Act.

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

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

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

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

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

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

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

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

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

26           (2) The Agency shall each year, as needed, issue a

1 request for qualifications for a procurement administrator  
2 to conduct the competitive procurement processes in  
3 accordance with Section 16-111.5 of the Public Utilities  
4 Act. In order to qualify an expert or expert consulting  
5 firm must have:

6 (A) direct previous experience administering a  
7 large-scale competitive procurement process;

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

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

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

16 (E) expertise in credit and contract protocols;

17 (F) adequate resources to perform and fulfill the  
18 required functions and responsibilities; and

19 (G) the absence of a conflict of interest and  
20 inappropriate bias for or against potential bidders or  
21 the affected electric utilities.

22 (3) The Agency shall provide affected utilities and  
23 other interested parties with the lists of qualified  
24 experts or expert consulting firms identified through the  
25 request for qualifications processes that are under  
26 consideration to develop the procurement plans and to

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

11               (A) failure to satisfy qualification criteria;

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

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

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

25               (4) The Agency shall issue requests for proposals to  
26      the qualified experts or expert consulting firms to

1           develop a procurement plan for the affected utilities and  
2           to serve as procurement administrator.

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

7           (6) The Agency shall select an expert or expert  
8           consulting firm, with approval of the Commission, to serve  
9           as procurement administrator based on the proposals  
10          submitted. If the Commission rejects, within 5 days, the  
11          Agency's selection, the Agency shall submit another  
12          recommendation within 3 days based on the proposals  
13          submitted. The Agency shall award a 5-year contract to the  
14          expert or expert consulting firm so selected with  
15          Commission approval.

16          (b) The experts or expert consulting firms retained by the  
17          Agency shall, as appropriate, prepare procurement plans, and  
18          conduct a competitive procurement process as prescribed in  
19          Section 16-111.5 of the Public Utilities Act, to ensure  
20          adequate, reliable, affordable, efficient, and environmentally  
21          sustainable electric service at the lowest total cost over  
22          time, taking into account any benefits of price stability, for  
23          eligible retail customers of electric utilities that on  
24          December 31, 2005 provided electric service to at least  
25          100,000 customers in the State of Illinois, and for eligible  
26          Illinois retail customers of small multi-jurisdictional



1 electric utilities that (i) on December 31, 2005 served less  
2 than 100,000 customers in Illinois and (ii) request a  
3 procurement plan for their Illinois jurisdictional load.

4 (c) Renewable portfolio standard.

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

1 long-term renewable resources procurement plans shall be  
2 subject to review and approval by the Commission under  
3 Section 16-111.5 of the Public Utilities Act.

4 (B) Subject to subparagraph (F) of this paragraph (1),  
5 the long-term renewable resources procurement plan shall  
6 attempt to meet the goals for procurement of renewable  
7 energy credits at levels of at least the following overall  
8 percentages: 13% by the 2017 delivery year; increasing by  
9 at least 1.5% each delivery year thereafter to at least  
10 25% by the 2025 delivery year; increasing by at least 3%  
11 each delivery year thereafter to at least 40% by the 2030  
12 delivery year, and continuing at no less than 40% for each  
13 delivery year thereafter. The Agency shall attempt to  
14 procure 50% by delivery year 2040. The Agency shall  
15 determine the annual increase between delivery year 2030  
16 and delivery year 2040, if any, taking into account energy  
17 demand, other energy resources, and other public policy  
18 goals. In the event of a conflict between these goals and  
19 the new wind and new photovoltaic procurement requirements  
20 described in items (i) through (iii) of subparagraph (C)  
21 of this paragraph (1), the long-term plan shall prioritize  
22 compliance with the new wind and new photovoltaic  
23 procurement requirements described in items (i) through  
24 (iii) of subparagraph (C) of this paragraph (1) over the  
25 annual percentage targets described in this subparagraph  
26 (B). The Agency shall not comply with the annual

1 percentage targets described in this subparagraph (B) by  
2 procuring renewable energy credits that are unlikely to  
3 lead to the development of new renewable resources.

4 For the delivery year beginning June 1, 2017, the  
5 procurement plan shall attempt to include, subject to the  
6 prioritization outlined in this subparagraph (B),  
7 cost-effective renewable energy resources equal to at  
8 least 13% of each utility's load for eligible retail  
9 customers and 13% of the applicable portion of each  
10 utility's load for retail customers who are not eligible  
11 retail customers, which applicable portion shall equal 50%  
12 of the utility's load for retail customers who are not  
13 eligible retail customers on February 28, 2017.

14 For the delivery year beginning June 1, 2018, the  
15 procurement plan shall attempt to include, subject to the  
16 prioritization outlined in this subparagraph (B),  
17 cost-effective renewable energy resources equal to at  
18 least 14.5% of each utility's load for eligible retail  
19 customers and 14.5% of the applicable portion of each  
20 utility's load for retail customers who are not eligible  
21 retail customers, which applicable portion shall equal 75%  
22 of the utility's load for retail customers who are not  
23 eligible retail customers on February 28, 2017.

24 For the delivery year beginning June 1, 2019, and for  
25 each year thereafter, the procurement plans shall attempt  
26 to include, subject to the prioritization outlined in this

1       subparagraph (B), cost-effective renewable energy  
2       resources equal to a minimum percentage of each utility's  
3       load for all retail customers as follows: 16% by June 1,  
4       2019; increasing by 1.5% each year thereafter to 25% by  
5       June 1, 2025; and 25% by June 1, 2026; increasing by at  
6       least 3% each delivery year thereafter to at least 40% by  
7       the 2030 delivery year, and continuing at no less than 40%  
8       for each delivery year thereafter. The Agency shall  
9       attempt to procure 50% by delivery year 2040. The Agency  
10      shall determine the annual increase between delivery year  
11      2030 and delivery year 2040, if any, taking into account  
12      energy demand, other energy resources, and other public  
13      policy goals.

14      For each delivery year, the Agency shall first  
15      recognize each utility's obligations for that delivery  
16      year under existing contracts. Any renewable energy  
17      credits under existing contracts, including renewable  
18      energy credits as part of renewable energy resources,  
19      shall be used to meet the goals set forth in this  
20      subsection (c) for the delivery year.

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

25              (i) 10,000,000 renewable energy credits delivered  
26              annually by the end of the 2021 delivery year, and

1 increasing ratably to reach 45,000,000 renewable  
2 energy credits delivered annually from new wind and  
3 solar projects by the end of delivery year 2030 such  
4 that the goals in subparagraph (B) of this paragraph  
5 (1) are met entirely by procurements of renewable  
6 energy credits from new wind and photovoltaic  
7 projects. Of that amount, to the extent possible, the  
8 Agency shall procure 45% from wind projects and 55%  
9 from photovoltaic projects. Of the amount to be  
10 procured from photovoltaic projects, the Agency shall  
11 procure: at least 50% from solar photovoltaic projects  
12 using the program outlined in subparagraph (K) of this  
13 paragraph (1) from distributed renewable energy  
14 generation devices or community renewable generation  
15 projects; at least 47% from utility-scale solar  
16 projects; at least 3% from brownfield site  
17 photovoltaic projects that are not community renewable  
18 generation projects.

19 In developing the long-term renewable resources  
20 procurement plan, the Agency shall consider other  
21 approaches, in addition to competitive procurements,  
22 that can be used to procure renewable energy credits  
23 from brownfield site photovoltaic projects and thereby  
24 help return blighted or contaminated land to  
25 productive use while enhancing public health and the  
26 well-being of Illinois residents, including those in

1 environmental justice communities, as defined using  
2 existing methodologies and findings used by the Agency  
3 and its Administrator in its Illinois Solar for All  
4 Program.

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

11 (iii) For purposes of this Section:

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

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

21 For purposes of calculating whether the Agency has  
22 procured enough new wind and solar renewable energy  
23 credits required by this subparagraph (C), renewable  
24 energy facilities that have a multi-year renewable  
25 energy credit delivery contract with the utility  
26 through at least delivery year 2030 shall be

1           considered new, however no renewable energy credits  
2           from contracts entered into before June 1, 2021 shall  
3           be used to calculate whether the Agency has procured  
4           the correct proportion of new wind and new solar  
5           contracts described in this subparagraph (C) for  
6           delivery year 2021 and thereafter.

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

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

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



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

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

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

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

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

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

26 (ii) renewable energy credits necessary to comply

1 with the new wind and new photovoltaic procurement  
2 requirements described in items (i) through (iii) of  
3 subparagraph (C) of this paragraph (1); and

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

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

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

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

6 (ii) Notwithstanding whether a long-term renewable  
7 resources procurement plan has been approved, the  
8 Agency shall conduct an initial forward procurement  
9 for renewable energy credits from new utility-scale  
10 solar projects and brownfield site photovoltaic  
11 projects within one year 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 solar projects and brownfield site  
17 photovoltaic projects to begin delivery on June 1,  
18 2019, if available, but not later than June 1, 2021,  
19 unless the project has delays in the establishment of  
20 an operating interconnection with the applicable  
21 transmission or distribution system as a result of the  
22 actions or inactions of the transmission or  
23 distribution provider, or other causes for force  
24 majeure as outlined in the procurement contract, in  
25 which case, not later than June 1, 2022. The Agency may  
26 structure this initial procurement in one or more

1 discrete procurement events. Payments to suppliers of  
2 renewable energy credits shall commence upon delivery.  
3 Renewable energy credits procured under this initial  
4 procurement shall be included in the Agency's  
5 long-term plan and shall apply to all renewable energy  
6 goals in this subsection (c).

7 (iii) Notwithstanding whether the Commission has  
8 approved the periodic long-term renewable resources  
9 procurement plan revision described in Section  
10 16-111.5 of the Public Utilities Act, the Agency shall  
11 conduct at least one subsequent forward procurement  
12 for renewable energy credits from new utility-scale  
13 wind projects, new utility-scale solar projects, and  
14 new brownfield site photovoltaic projects within 240  
15 days after the effective date of this amendatory Act  
16 of the 102nd General Assembly in quantities necessary  
17 to meet the requirements of subparagraph (C) of this  
18 paragraph (1) through the delivery year beginning June  
19 1, 2021.

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

1 manner:

2 (1) The Agency shall open the first block of  
3 annual capacity for the category described in item  
4 (i) of subparagraph (K) of this paragraph (1). The  
5 first block of annual capacity for item (i) shall  
6 be for at least 75 megawatts of total nameplate  
7 capacity. The price of the renewable energy credit  
8 for this block of capacity shall be 4% less than  
9 the price of the last open block in this category.  
10 Projects on a waitlist shall be awarded contracts  
11 first in the order in which they appear on the  
12 waitlist. Notwithstanding anything to the  
13 contrary, for those renewable energy credits that  
14 qualify and are procured under this subitem (1) of  
15 this item (iv), the renewable energy credit  
16 delivery contract value shall be paid in full,  
17 based on the estimated generation during the first  
18 15 years of operation, by the contracting  
19 utilities at the time that the facility producing  
20 the renewable energy credits is interconnected at  
21 the distribution system level of the utility and  
22 verified as energized and in compliance by the  
23 Program Administrator. The electric utility shall  
24 receive and retire all renewable energy credits  
25 generated by the project for the first 15 years of  
26 operation. Renewable energy credits generated by

1           the project thereafter shall not be transferred  
2           under the renewable energy credit delivery  
3           contract with the counterparty electric utility.

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

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

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

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



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

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

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

1 follows:

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

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

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

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

1 (iii) Assuming all other program  
2 requirements are met, applicant firms may  
3 adjust the nameplate capacity of applicant  
4 projects without losing waitlist  
5 eligibility, so long as no project is  
6 greater than 2,000 kilowatts in size.

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

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

19 (D) Applicant firms shall submit their  
20 portfolio of projects used to satisfy those  
21 contract awards no less than 90 days after the  
22 Agency's announcement. The total nameplate  
23 capacity of all projects used to satisfy that  
24 portfolio shall be no greater than the  
25 Agency's nameplate capacity award amount  
26 associated with that applicant firm. An

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

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

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

1 capacity being residential or small  
2 commercial customers with subscriptions of  
3 below 25 kilowatts in size;

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

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

24 The Agency shall publish a finalized  
25 updated renewable energy credit delivery  
26 contract developed consistent with these terms

1 and conditions no less than 30 days before  
2 applicant firms must submit their portfolio of  
3 projects pursuant to item (D).

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

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

1           subparagraph (L) of this paragraph (1).

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

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

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

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

23 (1) The purchase price of the indexed  
24 renewable energy credit payment shall be  
25 calculated for each settlement period. That  
26 payment, for any settlement period, shall be equal



1 to the difference resulting from subtracting the  
2 strike price from the index price for that  
3 settlement period. If this difference results in a  
4 negative number, the indexed REC counterparty  
5 shall owe the seller the absolute value multiplied  
6 by the quantity of energy produced in the relevant  
7 settlement period. If this difference results in a  
8 positive number, the seller shall owe the indexed  
9 REC counterparty this amount multiplied by the  
10 quantity of energy produced in the relevant  
11 settlement period.

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

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

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

1           consultation with the Agency, Commission staff,  
2           and procurement monitors, using then-currently  
3           available price forecast data and additional  
4           budget dollars shall be obligated or reobligated  
5           as appropriate.

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

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

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

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

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

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

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

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

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

26 For delivery years beginning June 1, 2019 and

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

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

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

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

24           (I) The Agency shall design its long-term renewable  
25           energy procurement plan to maximize the State's interest  
26           in the health, safety, and welfare of its residents,

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



1 described above. For the purposes of this Section,  
2 renewable resources that are delivered via a high voltage  
3 direct current converter station located in Illinois shall  
4 be deemed generated in Illinois at the time and location  
5 the energy is converted to alternating current by the high  
6 voltage direct current converter station if the high  
7 voltage direct current transmission line: (i) after the  
8 effective date of this amendatory Act of the 102nd General  
9 Assembly, was constructed with a project labor agreement;  
10 (ii) is capable of transmitting electricity at 525kv;  
11 (iii) has an Illinois converter station located and  
12 interconnected in the region of the PJM Interconnection,  
13 LLC; (iv) does not operate as a public utility; and (v) if  
14 the high voltage direct current transmission line was  
15 energized after June 1, 2023. To ensure that the public  
16 interest criteria are applied to the procurement and given  
17 full effect, the Agency's long-term procurement plan shall  
18 describe in detail how each public interest factor shall  
19 be considered and weighted for facilities located in  
20 states adjacent to Illinois.

21 (J) In order to promote the competitive development of  
22 renewable energy resources in furtherance of the State's  
23 interest in the health, safety, and welfare of its  
24 residents, renewable energy credits shall not be eligible  
25 to be counted toward the renewable energy requirements of  
26 this subsection (c) if they are sourced from a generating

1 unit whose costs were being recovered through rates  
2 regulated by this State or any other state or states on or  
3 after January 1, 2017. Each contract executed to purchase  
4 renewable energy credits under this subsection (c) shall  
5 provide for the contract's termination if the costs of the  
6 generating unit supplying the renewable energy credits  
7 subsequently begin to be recovered through rates regulated  
8 by this State or any other state or states; and each  
9 contract shall further provide that, in that event, the  
10 supplier of the credits must return 110% of all payments  
11 received under the contract. Amounts returned under the  
12 requirements of this subparagraph (J) shall be retained by  
13 the utility and all of these amounts shall be used for the  
14 procurement of additional renewable energy credits from  
15 new wind or new photovoltaic resources as defined in this  
16 subsection (c). The long-term plan shall provide that  
17 these renewable energy credits shall be procured in the  
18 next procurement event.

19 Notwithstanding the limitations of this subparagraph  
20 (J), renewable energy credits sourced from generating  
21 units that are constructed, purchased, owned, or leased by  
22 an electric utility as part of an approved project,  
23 program, or pilot under Section 1-56 of this Act shall be  
24 eligible to be counted toward the renewable energy  
25 requirements of this subsection (c), regardless of how the  
26 costs of these units are recovered. As long as a

1 generating unit or an identifiable portion of a generating  
2 unit has not had and does not have its costs recovered  
3 through rates regulated by this State or any other state,  
4 HVDC renewable energy credits associated with that  
5 generating unit or identifiable portion thereof shall be  
6 eligible to be counted toward the renewable energy  
7 requirements of this subsection (c).

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

25 The Adjustable Block program shall include for each  
26 category of eligible projects for each delivery year: a

1 single block of nameplate capacity, a price for renewable  
2 energy credits within that block, and the terms and  
3 conditions for securing a spot on a waitlist once the  
4 block is fully committed or reserved. Except as outlined  
5 below, the waitlist of projects in a given year will carry  
6 over to apply to the subsequent year when another block is  
7 opened. Only projects energized on or after June 1, 2017  
8 shall be eligible for the Adjustable Block program. For  
9 each category for each delivery year the Agency shall  
10 determine the amount of generation capacity in each block,  
11 and the purchase price for each block, provided that the  
12 purchase price provided and the total amount of generation  
13 in all blocks for all categories shall be sufficient to  
14 meet the goals in this subsection (c). The Agency shall  
15 strive to issue a single block sized to provide for  
16 stability and market growth. The Agency shall establish  
17 program eligibility requirements that ensure that projects  
18 that enter the program are sufficiently mature to indicate  
19 a demonstrable path to completion. The Agency may  
20 periodically review its prior decisions establishing the  
21 amount of generation capacity in each block, and the  
22 purchase price for each block, and may propose, on an  
23 expedited basis, changes to these previously set values,  
24 including but not limited to redistributing these amounts  
25 and the available funds as necessary and appropriate,  
26 subject to Commission approval as part of the periodic

1 plan revision process described in Section 16-111.5 of the  
2 Public Utilities Act. The Agency may define different  
3 block sizes, purchase prices, or other distinct terms and  
4 conditions for projects located in different utility  
5 service territories if the Agency deems it necessary to  
6 meet the goals in this subsection (c).

7 The Adjustable Block program shall include the  
8 following categories in at least the following amounts:

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

12 (ii) At least 20% from distributed renewable  
13 energy generation devices with a nameplate capacity of  
14 more than 25 kilowatts and no more than 5,000  
15 kilowatts. The Agency may create sub-categories within  
16 this category to account for the differences between  
17 projects for small commercial customers, large  
18 commercial customers, and public or non-profit  
19 customers.

20 (iii) At least 30% from photovoltaic community  
21 renewable generation projects. Capacity for this  
22 category for the first 2 delivery years after the  
23 effective date of this amendatory Act of the 102nd  
24 General Assembly shall be allocated to waitlist  
25 projects as provided in paragraph (3) of item (iv) of  
26 subparagraph (G). Starting in the third delivery year

1 after the effective date of this amendatory Act of the  
2 102nd General Assembly or earlier if the Agency  
3 determines there is additional capacity needed for to  
4 meet previous delivery year requirements, the  
5 following shall apply:

6 (1) the Agency shall select projects on a  
7 first-come, first-serve basis, however the Agency  
8 may suggest additional methods to prioritize  
9 projects that are submitted at the same time;

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

14 (3) projects shall not be colocated with one  
15 or more other community renewable generation  
16 projects, as defined in the Agency's first revised  
17 long-term renewable resources procurement plan  
18 approved by the Commission on February 18, 2020,  
19 such that the aggregate nameplate capacity exceeds  
20 5,000 kilowatts; and

21 (4) projects greater than 2 MW may not apply  
22 until after the approval of the Agency's revised  
23 Long-Term Renewable Resources Procurement Plan  
24 after the effective date of this amendatory Act of  
25 the 102nd General Assembly.

26 (iv) At least 15% from distributed renewable

1 generation devices or photovoltaic community renewable  
2 generation projects installed on ~~at~~ public school land  
3 ~~schools~~. The Agency may create subcategories within  
4 this category to account for the differences between  
5 project size or location. Projects located within  
6 environmental justice communities or within  
7 Organizational Units that fall within Tier 1 or Tier 2  
8 shall be given priority. Each of the Agency's periodic  
9 updates to its long-term renewable resources  
10 procurement plan to incorporate the procurement  
11 described in this subparagraph (iv) shall also include  
12 the proposed quantities or blocks, pricing, and  
13 contract terms applicable to the procurement as  
14 indicated herein. In each such update and procurement,  
15 the Agency shall set the renewable energy credit price  
16 and establish payment terms for the renewable energy  
17 credits procured pursuant to this subparagraph (iv)  
18 that make it feasible and affordable for public  
19 schools to install photovoltaic distributed renewable  
20 energy devices on their premises, including, but not  
21 limited to, those public schools subject to the  
22 prioritization provisions of this subparagraph. For  
23 the purposes of this item (iv):

24 "Environmental Justice Community" shall have the  
25 same meaning set forth in the Agency's long-term  
26 renewable resources procurement plan;

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

4           "Public schools" shall have the meaning set forth  
5 in Section 1-3 of the School Code and includes public  
6 institutions of higher education, as defined in the  
7 Board of Higher Education Act.

8           (v) At least 5% from community-driven community  
9 solar projects intended to provide more direct and  
10 tangible connection and benefits to the communities  
11 which they serve or in which they operate and,  
12 additionally, to increase the variety of community  
13 solar locations, models, and options in Illinois. As  
14 part of its long-term renewable resources procurement  
15 plan, the Agency shall develop selection criteria for  
16 projects participating in this category. Nothing in  
17 this Section shall preclude the Agency from creating a  
18 selection process that maximizes community ownership  
19 and community benefits in selecting projects to  
20 receive renewable energy credits. Selection criteria  
21 shall include:

22                   (1) community ownership or community  
23 wealth-building;

24                   (2) additional direct and indirect community  
25 benefit, beyond project participation as a  
26 subscriber, including, but not limited to,



1 economic, environmental, social, cultural, and  
2 physical benefits;

3 (3) meaningful involvement in project  
4 organization and development by community members  
5 or nonprofit organizations or public entities  
6 located in or serving the community;

7 (4) engagement in project operations and  
8 management by nonprofit organizations, public  
9 entities, or community members; and

10 (5) whether a project is developed in response  
11 to a site-specific RFP developed by community  
12 members or a nonprofit organization or public  
13 entity located in or serving the community.

14 Selection criteria may also prioritize projects  
15 that:

16 (1) are developed in collaboration with or to  
17 provide complementary opportunities for the Clean  
18 Jobs Workforce Network Program, the Illinois  
19 Climate Works Preapprenticeship Program, the  
20 Returning Residents Clean Jobs Training Program,  
21 the Clean Energy Contractor Incubator Program, or  
22 the Clean Energy Primes Contractor Accelerator  
23 Program;

24 (2) increase the diversity of locations of  
25 community solar projects in Illinois, including by  
26 locating in urban areas and population centers;

1                   (3) are located in Equity Investment Eligible  
2                   Communities;

3                   (4) are not greenfield projects;

4                   (5) serve only local subscribers;

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

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

9                   (8) otherwise meaningfully advance the goals  
10                  of providing more direct and tangible connection  
11                  and benefits to the communities which they serve  
12                  or in which they operate and increasing the  
13                  variety of community solar locations, models, and  
14                  options in Illinois.

15                  For the purposes of this item (v):

16                  "Community" means a social unit in which people  
17                  come together regularly to effect change; a social  
18                  unit in which participants are marked by a cooperative  
19                  spirit, a common purpose, or shared interests or  
20                  characteristics; or a space understood by its  
21                  residents to be delineated through geographic  
22                  boundaries or landmarks.

23                  "Community benefit" means a range of services and  
24                  activities that provide affirmative, economic,  
25                  environmental, social, cultural, or physical value to  
26                  a community; or a mechanism that enables economic

1 development, high-quality employment, and education  
2 opportunities for local workers and residents, or  
3 formal monitoring and oversight structures such that  
4 community members may ensure that those services and  
5 activities respond to local knowledge and needs.

6 "Community ownership" means an arrangement in  
7 which an electric generating facility is, or over time  
8 will be, in significant part, owned collectively by  
9 members of the community to which an electric  
10 generating facility provides benefits; members of that  
11 community participate in decisions regarding the  
12 governance, operation, maintenance, and upgrades of  
13 and to that facility; and members of that community  
14 benefit from regular use of that facility.

15 Terms and guidance within these criteria that are  
16 not defined in this item (v) shall be defined by the  
17 Agency, with stakeholder input, during the development  
18 of the Agency's long-term renewable resources  
19 procurement plan. The Agency shall develop regular  
20 opportunities for projects to submit applications for  
21 projects under this category, and develop selection  
22 criteria that gives preference to projects that better  
23 meet individual criteria as well as projects that  
24 address a higher number of criteria.

25 (vi) At least 10% from distributed renewable  
26 energy generation devices, which includes distributed

1 renewable energy devices with a nameplate capacity  
2 under 5,000 kilowatts or photovoltaic community  
3 renewable generation projects, from applicants that  
4 are equity eligible contractors. The Agency may create  
5 subcategories within this category to account for the  
6 differences between project size and type. The Agency  
7 shall propose to increase the percentage in this item  
8 (vi) over time to 40% based on factors, including, but  
9 not limited to, the number of equity eligible  
10 contractors and capacity used in this item (vi) in  
11 previous delivery years.

12 The Agency shall propose a payment structure for  
13 contracts executed pursuant to this paragraph under  
14 which, upon a demonstration of qualification or need,  
15 applicant firms are advanced capital disbursed after  
16 contract execution but before the contracted project's  
17 energization. The amount or percentage of capital  
18 advanced prior to project energization shall be  
19 sufficient to both cover any increase in development  
20 costs resulting from prevailing wage requirements or  
21 project-labor agreements, and designed to overcome  
22 barriers in access to capital faced by equity eligible  
23 contractors. The amount or percentage of advanced  
24 capital may vary by subcategory within this category  
25 and by an applicant's demonstration of need, with such  
26 levels to be established through the Long-Term

1 Renewable Resources Procurement Plan authorized under  
2 subparagraph (A) of paragraph (1) of subsection (c) of  
3 this Section.

4 Contracts developed featuring capital advanced  
5 prior to a project's energization shall feature  
6 provisions to ensure both the successful development  
7 of applicant projects and the delivery of the  
8 renewable energy credits for the full term of the  
9 contract, including ongoing collateral requirements  
10 and other provisions deemed necessary by the Agency,  
11 and may include energization timelines longer than for  
12 comparable project types. The percentage or amount of  
13 capital advanced prior to project energization shall  
14 not operate to increase the overall contract value,  
15 however contracts executed under this subparagraph may  
16 feature renewable energy credit prices higher than  
17 those offered to similar projects participating in  
18 other categories. Capital advanced prior to  
19 energization shall serve to reduce the ratable  
20 payments made after energization under items (ii) and  
21 (iii) of subparagraph (L) or payments made for each  
22 renewable energy credit delivery under item (iv) of  
23 subparagraph (L).

24 (vii) The remaining capacity shall be allocated by  
25 the Agency in order to respond to market demand. The  
26 Agency shall allocate any discretionary capacity prior

1 to the beginning of each delivery year.

2 To the extent there is uncontracted capacity from any  
3 block in any of categories (i) through (vi) at the end of a  
4 delivery year, the Agency shall redistribute that capacity  
5 to one or more other categories giving priority to  
6 categories with projects on a waitlist. The redistributed  
7 capacity shall be added to the annual capacity in the  
8 subsequent delivery year, and the price for renewable  
9 energy credits shall be the price for the new delivery  
10 year. Redistributed capacity shall not be considered  
11 redistributed when determining whether the goals in this  
12 subsection (K) have been met.

13 Notwithstanding anything to the contrary, as the  
14 Agency increases the capacity in item (vi) to 40% over  
15 time, the Agency may reduce the capacity of items (i)  
16 through (v) proportionate to the capacity of the  
17 categories of projects in item (vi), to achieve a balance  
18 of project types.

19 The Adjustable Block program shall be designed to  
20 ensure that renewable energy credits are procured from  
21 projects in diverse locations and are not concentrated in  
22 a few regional areas.

23 (L) Notwithstanding provisions for advancing capital  
24 prior to project energization found in item (vi) of  
25 subparagraph (K), the procurement of photovoltaic  
26 renewable energy credits under items (i) through (vi) of

1           subparagraph (K) of this paragraph (1) shall otherwise be  
2           subject to the following contract and payment terms:

3           (i) (Blank).

4           (ii) For those renewable energy credits that  
5           qualify and are procured under item (i) of  
6           subparagraph (K) of this paragraph (1), and any  
7           similar category projects that are procured under item  
8           (vi) of subparagraph (K) of this paragraph (1) that  
9           qualify and are procured under item (vi), the contract  
10          length shall be 15 years. The renewable energy credit  
11          delivery contract value shall be paid in full, based  
12          on the estimated generation during the first 15 years  
13          of operation, by the contracting utilities at the time  
14          that the facility producing the renewable energy  
15          credits is interconnected at the distribution system  
16          level of the utility and verified as energized and  
17          compliant by the Program Administrator. The electric  
18          utility shall receive and retire all renewable energy  
19          credits generated by the project for the first 15  
20          years of operation. Renewable energy credits generated  
21          by the project thereafter shall not be transferred  
22          under the renewable energy credit delivery contract  
23          with the counterparty electric utility.

24          (iii) For those renewable energy credits that  
25          qualify and are procured under item (ii) and (v) of  
26          subparagraph (K) of this paragraph (1) and any like

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

19 (iv) For those renewable energy credits that  
20 qualify and are procured under items (iii) and (iv) of  
21 subparagraph (K) of this paragraph (1), and any like  
22 projects that qualify and are procured under item  
23 (vi), the renewable energy credit delivery contract  
24 length shall be 20 years and shall be paid over the  
25 delivery term, not to exceed during each delivery year  
26 the contract price multiplied by the estimated annual



1 renewable energy credit generation amount. If  
2 generation of renewable energy credits during a  
3 delivery year exceeds the estimated annual generation  
4 amount, the excess renewable energy credits shall be  
5 carried forward to future delivery years and shall not  
6 expire during the delivery term. If generation of  
7 renewable energy credits during a delivery year,  
8 including carried forward excess renewable energy  
9 credits, if any, is less than the estimated annual  
10 generation amount, payments during such delivery year  
11 will not exceed the quantity generated plus the  
12 quantity carried forward multiplied by the contract  
13 price. The electric utility shall receive all  
14 renewable energy credits generated by the project  
15 during the first 20 years of operation and retire all  
16 renewable energy credits paid for under this item (iv)  
17 and return at the end of the delivery term all  
18 renewable energy credits that were not paid for.  
19 Renewable energy credits generated by the project  
20 thereafter shall not be transferred under the  
21 renewable energy credit delivery contract with the  
22 counterparty electric utility. Notwithstanding the  
23 preceding, for those projects participating under item  
24 (iii) of subparagraph (K), the contract price for a  
25 delivery year shall be based on subscription levels as  
26 measured on the higher of the first business day of the

1 delivery year or the first business day 6 months after  
2 the first business day of the delivery year.  
3 Subscription of 90% of nameplate capacity or greater  
4 shall be deemed to be fully subscribed for the  
5 purposes of this item (iv). For projects receiving a  
6 20-year delivery contract, REC prices shall be  
7 adjusted downward for consistency with the incentive  
8 levels previously determined to be necessary to  
9 support projects under 15-year delivery contracts,  
10 taking into consideration any additional new  
11 requirements placed on the projects, including, but  
12 not limited to, labor standards.

13 (v) Each contract shall include provisions to  
14 ensure the delivery of the estimated quantity of  
15 renewable energy credits and ongoing collateral  
16 requirements and other provisions deemed appropriate  
17 by the Agency.

18 (vi) The utility shall be the counterparty to the  
19 contracts executed under this subparagraph (L) that  
20 are approved by the Commission under the process  
21 described in Section 16-111.5 of the Public Utilities  
22 Act. No contract shall be executed for an amount that  
23 is less than one renewable energy credit per year.

24 (vii) If, at any time, approved applications for  
25 the Adjustable Block program exceed funds collected by  
26 the electric utility or would cause the Agency to

1           exceed the limitation described in subparagraph (E) of  
2           this paragraph (1) on the amount of renewable energy  
3           resources that may be procured, then the Agency may  
4           consider future uncommitted funds to be reserved for  
5           these contracts on a first-come, first-served basis.

6           (viii) Nothing in this Section shall require the  
7           utility to advance any payment or pay any amounts that  
8           exceed the actual amount of revenues anticipated to be  
9           collected by the utility under paragraph (6) of this  
10          subsection (c) and subsection (k) of Section 16-108 of  
11          the Public Utilities Act inclusive of eligible funds  
12          collected in prior years and alternative compliance  
13          payments for use by the utility, and contracts  
14          executed under this Section shall expressly  
15          incorporate this limitation.

16          (ix) Notwithstanding other requirements of this  
17          subparagraph (L), no modification shall be required to  
18          Adjustable Block program contracts if they were  
19          already executed prior to the establishment, approval,  
20          and implementation of new contract forms as a result  
21          of this amendatory Act of the 102nd General Assembly.

22          (x) Contracts may be assignable, but only to  
23          entities first deemed by the Agency to have met  
24          program terms and requirements applicable to direct  
25          program participation. In developing contracts for the  
26          delivery of renewable energy credits, the Agency shall

1           be permitted to establish fees applicable to each  
2           contract assignment.

3           (M) The Agency shall be authorized to retain one or  
4           more experts or expert consulting firms to develop,  
5           administer, implement, operate, and evaluate the  
6           Adjustable Block program described in subparagraph (K) of  
7           this paragraph (1), and the Agency shall retain the  
8           consultant or consultants in the same manner, to the  
9           extent practicable, as the Agency retains others to  
10          administer provisions of this Act, including, but not  
11          limited to, the procurement administrator. The selection  
12          of experts and expert consulting firms and the procurement  
13          process described in this subparagraph (M) are exempt from  
14          the requirements of Section 20-10 of the Illinois  
15          Procurement Code, under Section 20-10 of that Code. The  
16          Agency shall strive to minimize administrative expenses in  
17          the implementation of the Adjustable Block program.

18          The Program Administrator may charge application fees  
19          to participating firms to cover the cost of program  
20          administration. Any application fee amounts shall  
21          initially be determined through the long-term renewable  
22          resources procurement plan, and modifications to any  
23          application fee that deviate more than 25% from the  
24          Commission's approved value must be approved by the  
25          Commission as a long-term plan revision under Section  
26          16-111.5 of the Public Utilities Act. The Agency shall

1 consider stakeholder feedback when making adjustments to  
2 application fees and shall notify stakeholders in advance  
3 of any planned changes.

4 In addition to covering the costs of program  
5 administration, the Agency, in conjunction with its  
6 Program Administrator, may also use the proceeds of such  
7 fees charged to participating firms to support public  
8 education and ongoing regional and national coordination  
9 with nonprofit organizations, public bodies, and others  
10 engaged in the implementation of renewable energy  
11 incentive programs or similar initiatives. This work may  
12 include developing papers and reports, hosting regional  
13 and national conferences, and other work deemed necessary  
14 by the Agency to position the State of Illinois as a  
15 national leader in renewable energy incentive program  
16 development and administration.

17 The Agency and its consultant or consultants shall  
18 monitor block activity, share program activity with  
19 stakeholders and conduct quarterly meetings to discuss  
20 program activity and market conditions. If necessary, the  
21 Agency may make prospective administrative adjustments to  
22 the Adjustable Block program design, such as making  
23 adjustments to purchase prices as necessary to achieve the  
24 goals of this subsection (c). Program modifications to any  
25 block price that do not deviate from the Commission's  
26 approved value by more than 10% shall take effect

1 immediately and are not subject to Commission review and  
2 approval. Program modifications to any block price that  
3 deviate more than 10% from the Commission's approved value  
4 must be approved by the Commission as a long-term plan  
5 amendment under Section 16-111.5 of the Public Utilities  
6 Act. The Agency shall consider stakeholder feedback when  
7 making adjustments to the Adjustable Block design and  
8 shall notify stakeholders in advance of any planned  
9 changes.

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

24 (i) The Agency shall establish a registration  
25 process for entities seeking to qualify for  
26 program-administered incentive funding and establish

1 baseline qualifications for vendor approval. The  
2 Agency must maintain a list of approved entities on  
3 each program's website, and may revoke a vendor's  
4 ability to receive program-administered incentive  
5 funding status upon a determination that the vendor  
6 failed to comply with contract terms, the law, or  
7 other program requirements.

8 (ii) The Agency shall establish program  
9 requirements and minimum contract terms to ensure  
10 projects are properly installed and produce their  
11 expected amounts of energy. Program requirements may  
12 include on-site inspections and photo documentation of  
13 projects under construction. The Agency may require  
14 repairs, alterations, or additions to remedy any  
15 material deficiencies discovered. Vendors who have a  
16 disproportionately high number of deficient systems  
17 may lose their eligibility to continue to receive  
18 State-administered incentive funding through Agency  
19 programs and procurements.

20 (iii) To discourage deceptive marketing or other  
21 bad faith business practices, the Agency may require  
22 direct program participants, including agents  
23 operating on their behalf, to provide standardized  
24 disclosures to a customer prior to that customer's  
25 execution of a contract for the development of a  
26 distributed generation system or a subscription to a

1 community solar project.

2 (iv) The Agency shall establish one or multiple  
3 Consumer Complaints Centers to accept complaints  
4 regarding businesses that participate in, or otherwise  
5 benefit from, State-administered incentive funding  
6 through Agency-administered programs. The Agency shall  
7 maintain a public database of complaints with any  
8 confidential or particularly sensitive information  
9 redacted from public entries.

10 (v) Through a filing in the proceeding for the  
11 approval of its long-term renewable energy resources  
12 procurement plan, the Agency shall provide an annual  
13 written report to the Illinois Commerce Commission  
14 documenting the frequency and nature of complaints and  
15 any enforcement actions taken in response to those  
16 complaints.

17 (vi) The Agency shall schedule regular meetings  
18 with representatives of the Office of the Attorney  
19 General, the Illinois Commerce Commission, consumer  
20 protection groups, and other interested stakeholders  
21 to share relevant information about consumer  
22 protection, project compliance, and complaints  
23 received.

24 (vii) To the extent that complaints received  
25 implicate the jurisdiction of the Office of the  
26 Attorney General, the Illinois Commerce Commission, or



1 local, State, or federal law enforcement, the Agency  
2 shall also refer complaints to those entities as  
3 appropriate.

4 (N) The Agency shall establish the terms, conditions,  
5 and program requirements for photovoltaic community  
6 renewable generation projects with a goal to expand access  
7 to a broader group of energy consumers, to ensure robust  
8 participation opportunities for residential and small  
9 commercial customers and those who cannot install  
10 renewable energy on their own properties. Subject to  
11 reasonable limitations, any plan approved by the  
12 Commission shall allow subscriptions to community  
13 renewable generation projects to be portable and  
14 transferable. For purposes of this subparagraph (N),  
15 "portable" means that subscriptions may be retained by the  
16 subscriber even if the subscriber relocates or changes its  
17 address within the same utility service territory; and  
18 "transferable" means that a subscriber may assign or sell  
19 subscriptions to another person within the same utility  
20 service territory.

21 Through the development of its long-term renewable  
22 resources procurement plan, the Agency may consider  
23 whether community renewable generation projects utilizing  
24 technologies other than photovoltaics should be supported  
25 through State-administered incentive funding, and may  
26 issue requests for information to gauge market demand.

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

6           The Agency shall purchase renewable energy credits  
7           from subscribed shares of photovoltaic community renewable  
8           generation projects through the Adjustable Block program  
9           described in subparagraph (K) of this paragraph (1) or  
10          through the Illinois Solar for All Program described in  
11          Section 1-56 of this Act. The electric utility shall  
12          purchase any unsubscribed energy from community renewable  
13          generation projects that are Qualifying Facilities ("QF")  
14          under the electric utility's tariff for purchasing the  
15          output from QFs under Public Utilities Regulatory Policies  
16          Act of 1978.

17          The owners of and any subscribers to a community  
18          renewable generation project shall not be considered  
19          public utilities or alternative retail electricity  
20          suppliers under the Public Utilities Act solely as a  
21          result of their interest in or subscription to a community  
22          renewable generation project and shall not be required to  
23          become an alternative retail electric supplier by  
24          participating in a community renewable generation project  
25          with a public utility.

26          (O) For the delivery year beginning June 1, 2018, the

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

1 a periodic basis that are funded under this subparagraph  
2 (O).

3 (P) All programs and procurements under this  
4 subsection (c) shall be designed to encourage  
5 participating projects to use a diverse and equitable  
6 workforce and a diverse set of contractors, including  
7 minority-owned businesses, disadvantaged businesses,  
8 trade unions, graduates of any workforce training programs  
9 administered under this Act, and small businesses.

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

25 (Q) Each facility listed in subitems (i) through  
26 (viii) of item (1) of this subparagraph (Q) for which a

1 renewable energy credit delivery contract is signed after  
2 the effective date of this amendatory Act of the 102nd  
3 General Assembly is subject to the following requirements  
4 through the Agency's long-term renewable resources  
5 procurement plan:

6 (1) Each facility shall be subject to the  
7 prevailing wage requirements included in the  
8 Prevailing Wage Act. The Agency shall require  
9 verification that all construction performed on the  
10 facility by the renewable energy credit delivery  
11 contract holder, its contractors, or its  
12 subcontractors relating to construction of the  
13 facility is performed by construction employees  
14 receiving an amount for that work equal to or greater  
15 than the general prevailing rate, as that term is  
16 defined in Section 3 of the Prevailing Wage Act. For  
17 purposes of this item (1), "house of worship" means  
18 property that is both (1) used exclusively by a  
19 religious society or body of persons as a place for  
20 religious exercise or religious worship and (2)  
21 recognized as exempt from taxation pursuant to Section  
22 15-40 of the Property Tax Code. This item (1) shall  
23 apply to any the following:

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

25 (ii) all new utility-scale photovoltaic  
26 projects;

1           (iii) all new brownfield photovoltaic  
2 projects;

3           (iv) all new photovoltaic community renewable  
4 energy facilities that qualify for item (iii) of  
5 subparagraph (K) of this paragraph (1);

6           (v) all new community driven community  
7 photovoltaic projects that qualify for item (v) of  
8 subparagraph (K) of this paragraph (1);

9           (vi) all new photovoltaic projects on public  
10 school land ~~distributed renewable energy~~  
11 ~~generation devices on schools~~ that qualify for  
12 item (iv) of subparagraph (K) of this paragraph  
13 (1);

14           (vii) all new photovoltaic distributed  
15 renewable energy generation devices that (1)  
16 qualify for item (i) 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           (viii) all new photovoltaic distributed  
23 renewable energy generation devices that (1)  
24 qualify for item (ii) of subparagraph (K) of this  
25 paragraph (1); (2) are not projects that serve  
26 single-family or multi-family residential

1 buildings; and (3) are not houses of worship where  
2 the aggregate capacity including collocated  
3 projects would not exceed 100 kilowatts.

4 (2) Renewable energy credits procured from new  
5 utility-scale wind projects, new utility-scale solar  
6 projects, and new brownfield solar projects pursuant  
7 to Agency procurement events occurring after the  
8 effective date of this amendatory Act of the 102nd  
9 General Assembly must be from facilities built by  
10 general contractors that must enter into a project  
11 labor agreement, as defined by this Act, prior to  
12 construction. The project labor agreement shall be  
13 filed with the Director in accordance with procedures  
14 established by the Agency through its long-term  
15 renewable resources procurement plan. Any information  
16 submitted to the Agency in this item (2) shall be  
17 considered commercially sensitive information. At a  
18 minimum, the project labor agreement must provide the  
19 names, addresses, and occupations of the owner of the  
20 plant and the individuals representing the labor  
21 organization employees participating in the project  
22 labor agreement consistent with the Project Labor  
23 Agreements Act. The agreement must also specify the  
24 terms and conditions as defined by this Act.

25 (3) It is the intent of this Section to ensure that  
26 economic development occurs across Illinois

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

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



1 Section 16-102 of the Public Utilities Act. This program  
2 shall take effect in the delivery year commencing June 1,  
3 2023.

4 (1) For the purposes of this subparagraph:

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

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

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

26 (i) qualify as renewable energy credits as

1 defined in Section 1-10 of this Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 supporting documentation;

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

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

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

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

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

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

6            (2) (Blank).

7            (3) (Blank).

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

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



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

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

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

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

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

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

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

23 (2) The Agency shall conduct 2 procurement events to  
24 select owners of electric generating facilities meeting  
25 the eligibility criteria specified in this subsection  
26 (c-5) to enter into long-term contracts to sell renewable

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

23 (A) The applicant owns an electric generating  
24 facility located in this State that: (i) as of January  
25 1, 2016, burned coal as its primary fuel to generate  
26 electricity; and (ii) has, or had prior to retirement,

1 an electric generating capacity of at least 150  
2 megawatts. The electric generating facility can be  
3 either: (i) retired as of the date of the procurement  
4 event; or (ii) still operating as of the date of the  
5 procurement event.

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

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

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

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

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

1 employees of the coal-fueled electric generating  
2 facility or by previous employment experience  
3 performing the employee's particular work skill or  
4 function.

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

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

1           and create opportunities to employ former coal-fired  
2           power plant workers.

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

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

25          (3) An applicant may submit applications to contract  
26          to supply renewable energy credits from more than one new



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

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

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

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

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

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

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

24 (8) The Agency, in conjunction with its procurement  
25 administrator if one is retained, the electric utilities,  
26 and potential applicants for contracts to produce and

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

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

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

17 (A) By no later than July 1, 2022, each electric  
18 utility that served more than 300,000 retail customers  
19 in this State as of January 1, 2019 shall file a tariff  
20 with the Commission for the billing and collection of  
21 a Coal to Solar and Energy Storage Initiative Charge  
22 in accordance with subsection (i-5) of Section 16-108  
23 of the Public Utilities Act, with such tariff to be  
24 effective, following review and approval or  
25 modification by the Commission, beginning January 1,  
26 2023. The tariff shall provide for the calculation and

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

23 (B) Each electric utility shall remit on a monthly  
24 basis to the State Treasurer, for deposit in the Coal  
25 to Solar and Energy Storage Initiative Fund provided  
26 for in this subsection (c-5), the electric utility's

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

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

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

22 (B) The Coal to Solar and Energy Storage  
23 Initiative Fund shall not be subject to sweeps,  
24 administrative charges, or chargebacks, including, but  
25 not limited to, those authorized under Section 8h of  
26 the State Finance Act, that would in any way result in

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

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

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

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

25 (3) if the electric generating facility is  
26 retired, it was retired subsequent to January 1,



1 2016;

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

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

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

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

25 (8) the owner commits to place the energy  
26 storage facility into commercial operation on

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

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

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

1 function;

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

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

26 The Department shall accept applications for this

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

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

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

1 warrants upon vouchers so signed. The Treasurer shall  
2 accept all written warrants so signed and shall be  
3 released from liability for all payments made on those  
4 warrants.

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

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

26 (B) For purposes of this paragraph (11), diversity

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

25 (C) The plan shall provide for, but not be limited  
26 to: (i) internal initiatives, including multi-tier

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

1 communities, seeking to enter the renewable energy  
2 industry.

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

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

12 (1) Minimum equity standards. The Agency shall create  
13 programs with the purpose of increasing access to and  
14 development of equity eligible contractors, who are prime  
15 contractors and subcontractors, across all of the programs  
16 it manages. All applications for renewable energy credit  
17 procurements shall comply with specific minimum equity  
18 commitments. Starting in the delivery year immediately  
19 following the next long-term renewable resources  
20 procurement plan, at least 10% of the project workforce  
21 for each entity participating in a procurement program  
22 outlined in this subsection (c-10) must be done by equity  
23 eligible persons or equity eligible contractors. The  
24 Agency shall increase the minimum percentage each delivery  
25 year thereafter by increments that ensure a statewide  
26 average of 30% of the project workforce for each entity

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

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

1           designee status between delivery years, the Agency  
2           shall require a compliance plan at the time of  
3           application.

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

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

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

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

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

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

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

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

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

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

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

23 (C) A program for approved vendors, designees,  
24 eligible persons, and equity eligible contractors to  
25 receive trainings, guidance, and other support from  
26 the Agency or its designee regarding the equity

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

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

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

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

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

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

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

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

25 (c-15) Racial discrimination elimination powers and  
26 process.



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

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

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

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

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

22 (c-20) Program data collection.

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

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

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

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

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

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

26 (C) any other information the Agency determines is

1           necessary for the purpose of achieving the purpose of  
2           this subsection.

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

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

11          (c-25) Energy Workforce Equity Database.

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

22                  (A) publicly accessible;

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

24                  (C) organized by company specialty or field;

25                  (D) region-specific; and

26                  (E) populated with information including, but not

1 limited to, contacts for suppliers, vendors, or  
2 subcontractors who are minority and women-owned  
3 business enterprise certified or who participate or  
4 have participated in any of the programs described in  
5 this Act.

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

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

11 (B) job postings and recruiting opportunities;

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

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

19 (E) renewable energy company diversity reporting;

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

23 (G) reporting on outcomes of the programs  
24 described in the workforce programs of the Energy  
25 Transition Act, including information such as, but not  
26 limited to, retention rate, graduation rate, and

1 placement rates of trainees; and

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

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

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

1 action plan and achieve compliance with the minimum equity  
2 standards.

3 (d) Clean coal portfolio standard.

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

1 subject to Commission review and approval.

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

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

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

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



1 electric service includes without limitation amounts paid  
2 for supply, transmission, distribution, surcharges and  
3 add-on taxes.

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

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

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

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

25 (D) in 2013, the greater of an additional 0.5% of  
26 the amount paid per kilowatthour by those customers

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

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

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

25          (3) Initial clean coal facility. In order to promote  
26          development of clean coal facilities in Illinois, each

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

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

24 (i) be determined using a cost of service  
25 methodology employing either a level or deferred  
26 capital recovery component, based on a capital

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

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

24 (B) power purchase provisions, which shall:

25 (i) provide that the utility party to such  
26 sourcing agreement shall pay the contract price

1 for electricity delivered under such sourcing  
2 agreement;

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

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

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

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

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

1 subsection (d);

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

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

23 (D) general provisions, which shall:

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

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

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

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

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



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

1 designation as a clean coal facility if the  
2 facility fails to fully comply with the applicable  
3 carbon sequestration requirements in any given  
4 year, provided the requisite offsets are  
5 purchased. However, the Attorney General, on  
6 behalf of the People of the State of Illinois, may  
7 specifically enforce the facility's sequestration  
8 requirement and the other terms of this contract  
9 provision. Compliance with the sequestration  
10 requirements and offset purchase requirements  
11 specified in paragraph (3) of this subsection (d)  
12 shall be reviewed annually by an independent  
13 expert retained by the owner of the initial clean  
14 coal facility, with the advance written approval  
15 of the Attorney General. The Commission may, in  
16 the course of the review specified in item (vii),  
17 reduce the allowable return on equity for the  
18 facility if the facility willfully fails to comply  
19 with the carbon capture and sequestration  
20 requirements set forth in this item (v);

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

26 (vii) require Commission review: (1) to

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

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

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

1 delivered to the facility busbar;

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

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

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

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

25 (4) Effective date of sourcing agreements with the  
26 initial clean coal facility. Any proposed sourcing

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

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

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

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

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

24 (iv) Commission review. If the General Assembly  
25 enacts authorizing legislation pursuant to  
26 subparagraph (iii) approving a sourcing agreement, the

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

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

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

25 (ii) an estimate of the capital cost of the  
26 balance of the plant, including any capital costs

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

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

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

24 (C) The facility cost report shall also include an  
25 operating and maintenance cost quote that will provide  
26 the estimated cost of delivered fuel, personnel,



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

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

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

1           initial clean coal facility.

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

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

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

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

17 (d-5) Zero emission standard.

18 (1) Beginning with the delivery year commencing on  
19 June 1, 2017, the Agency shall, for electric utilities  
20 that serve at least 100,000 retail customers in this  
21 State, procure contracts with zero emission facilities  
22 that are reasonably capable of generating cost-effective  
23 zero emission credits in an amount approximately equal to  
24 16% of the actual amount of electricity delivered by each  
25 electric utility to retail customers in the State during  
26 calendar year 2014. For an electric utility serving fewer

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

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

25 The procurement process shall be subject to the  
26 following provisions:

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

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

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

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

1 purposes of this item (iii), that the costs could  
2 reasonably be avoided only by ceasing operations  
3 of the zero emission facility; and

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

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

21 (B) The price for each zero emission credit  
22 procured under this subsection (d-5) for each delivery  
23 year shall be in an amount that equals the Social Cost  
24 of Carbon, expressed on a price per megawatthour  
25 basis. However, to ensure that the procurement remains  
26 affordable to retail customers in this State if

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

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

24 (ii) Baseline market price index: The baseline  
25 market price index for the consecutive 12-month  
26 period ending May 31, 2016 is \$31.40 per

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

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

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



1 that delivery year to produce a single energy  
2 forward price for the delivery year. The  
3 forward market price calculation shall use  
4 data published by the Intercontinental  
5 Exchange, or its successor.

6 (bb) Projected capacity prices:

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

25 (II) For the delivery year commencing  
26 June 1, 2020, and each year thereafter,

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

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

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

20 "RTO" means regional transmission  
21 organization.

22 (C) No later than 45 days after June 1, 2017 (the  
23 effective date of Public Act 99-906), the Agency shall  
24 publish its proposed zero emission standard  
25 procurement plan. The plan shall be consistent with  
26 the provisions of this paragraph (1) and shall provide

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

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

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

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

23           (C-5) As part of the Commission's review and  
24 acceptance or rejection of the procurement results,  
25 the Commission shall, in its public notice of  
26 successful bidders:

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

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

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

22           (aa) the value of avoided greenhouse gas  
23 emissions measured as the product of the zero  
24 emission facilities' output over the contract  
25 term multiplied by the U.S. Environmental  
26 Protection Agency eGrid subregion carbon

1           dioxide emission rate and the U.S. Interagency  
2           Working Group on Social Cost of Carbon's price  
3           in the August 2016 Technical Update using a 3%  
4           discount rate, adjusted for inflation for each  
5           delivery year; and

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

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

17           (II) the price, or if there is more  
18           than one price, the average of the prices,  
19           paid for renewable energy credits from new  
20           utility-scale solar projects and  
21           brownfield site photovoltaic projects in  
22           the procurement events specified in item  
23           (ii) of subparagraph (G) of paragraph (1)  
24           of subsection (c) of this Section and,  
25           after January 1, 2015, renewable energy  
26           credits from photovoltaic distributed

1 generation projects in procurement events  
2 held under subsection (c) of this Section.

3 Each utility shall enter into binding contractual  
4 arrangements with the winning suppliers.

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

23 (D) Following the procurement event described in  
24 this paragraph (1) and consistent with subparagraph  
25 (B) of this paragraph (1), the Agency shall calculate  
26 the payments to be made under each contract for the

1 next delivery year based on the market price index for  
2 that delivery year. The Agency shall publish the  
3 payment calculations no later than May 25, 2017 and  
4 every May 25 thereafter.

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

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



1           overcome. In such event, the zero emission  
2           facility shall be excused from performance for the  
3           duration of the event, including, but not limited  
4           to, delivery of zero emission credits, and no  
5           payment shall be due to the zero emission facility  
6           during the duration of the event.

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

20          (iii) A zero emission facility shall be  
21          permitted to terminate the contract in the event  
22          that the resource requires capital expenditures in  
23          excess of \$40,000,000 that were neither known nor  
24          reasonably foreseeable at the time it executed the  
25          contract and that a prudent owner or operator of  
26          such resource would not undertake.

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

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

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

21           Notwithstanding the requirements of this subsection  
22 (d-5), the contracts executed under this subsection (d-5)  
23 shall provide that the total of zero emission credits  
24 procured under a procurement plan shall be subject to the  
25 limitations of this paragraph (2). For each delivery year,  
26 the contractual volume receiving payments in such year

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

1 shall be made and no adjustments to those contract amounts  
2 shall be allowed. All costs incurred under those contracts  
3 and in implementing this subsection (d-5) shall be  
4 recovered by the electric utility as provided in this  
5 Section.

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

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

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

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

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

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

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

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

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

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

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

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

23          (1) The General Assembly finds:

24                (A) The health, welfare, and prosperity of all  
25                Illinois citizens require that the State of Illinois act  
26                to avoid and not increase carbon emissions from electric

1 generation sources while continuing to ensure affordable,  
2 stable, and reliable electricity to all citizens.

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

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

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

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

25 (F) The Environmental Protection Agency commissioned  
26 an independent audit which provided a detailed assessment

1 of the financial condition of the Illinois nuclear fleet  
2 to evaluate its financial viability and whether the  
3 environmental benefits of such resources were at risk. The  
4 report identified the risk of losing the environmental  
5 benefits of several specific nuclear units. The report  
6 also identified that the LaSalle County Generating Station  
7 will continue to operate through 2026 and therefore is not  
8 eligible to participate in the carbon mitigation credit  
9 program.

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

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

21 (I) The General Assembly therefore finds it necessary  
22 to establish carbon mitigation credits to ensure decreased  
23 reliance on more carbon-intensive energy resources, for  
24 transitioning to a fully decarbonized electricity sector,  
25 and to help ensure health and welfare of the State's  
26 residents.



1 (2) As used in this subsection:

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

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

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

23 (3) Procurement.

24 (A) Beginning with the delivery year commencing on  
25 June 1, 2022, the Agency shall, for electric utilities  
26 serving at least 3,000,000 retail customers in the State,

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

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

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

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

19 (iii) a commitment to be reflected in any contract  
20 entered into pursuant to this subsection (d-10) to  
21 continue operating the carbon-free energy resource at  
22 a capacity factor of at least 88% annually on average  
23 for the duration of the contract or contracts executed  
24 under the procurement held under this subsection  
25 (d-10), except in an instance described in  
26 subparagraph (E) of paragraph (1) of subsection (d-5)

1 of this Section or made impracticable as a result of  
2 compliance with law or regulation;

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

6 (I) the carbon-free energy resource's cost  
7 projections, expressed on a per megawatt-hour  
8 basis, over the next 5 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; nonfuel 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 subitem (I), that the costs could  
20 reasonably be avoided only by ceasing operations  
21 of the carbon-free energy resource; and

22 (II) the carbon-free energy resource's revenue  
23 projections, including energy, capacity, ancillary  
24 services, any other direct State support, known or  
25 anticipated federal attribute credits, known or  
26 anticipated tax credits, and any other direct

1 federal support.

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

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

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

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

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

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

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

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

22 (II) the Base Residual Auction Capacity Price  
23 for the ComEd zone as determined by PJM  
24 Interconnection, LLC, divided by 24 hours per day,  
25 for the applicable delivery year for the first 3  
26 delivery years, and then any subsequent delivery

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

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

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

23           To protect retail customers from retail rate  
24           impacts that may arise upon the initiation of carbon  
25           policy changes, if the price-per-megawatt-hour  
26           calculation performed under item (iii) of this

1           subparagraph (C) for a given delivery year results in  
2           a net negative value, then the supplier counterparty  
3           to the contract shall multiply such net value by the  
4           applicable contract quantity and remit such amount to  
5           the electric utility counterparty. The electric  
6           utility shall reflect such amounts remitted by  
7           suppliers as a credit on its retail customer bills as  
8           soon as practicable.

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

16          The baseline costs for the applicable year shall  
17          be the following:

18               (I) For the delivery year beginning June 1,  
19               2022, the baseline costs shall be an amount equal  
20               to \$30.30 per megawatt-hour.

21               (II) For the delivery year beginning June 1,  
22               2023, the baseline costs shall be an amount equal  
23               to \$32.50 per megawatt-hour.

24               (III) For the delivery year beginning June 1,  
25               2024, the baseline costs shall be an amount equal  
26               to \$33.43 per megawatt-hour.

1 (IV) For the delivery year beginning June 1,  
2 2025, the baseline costs shall be an amount equal  
3 to \$33.50 per megawatt-hour.

4 (V) For the delivery year beginning June 1,  
5 2026, the baseline costs shall be an amount equal  
6 to \$34.50 per megawatt-hour.

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

17 Although actual energy and capacity prices may  
18 vary from year-to-year, the General Assembly finds  
19 that this customer protection cap will help ensure  
20 that the cost of carbon mitigation credits will be  
21 less than its value, based upon the social cost of  
22 carbon identified in the Technical Support Document  
23 issued in February 2021 by the U.S. Interagency  
24 Working Group on Social Cost of Greenhouse Gases and  
25 the PJM Interconnection, LLC carbon dioxide marginal  
26 emission rate for 2020, and that a carbon-free energy



1 resource receiving payment for carbon mitigation  
2 credits receives no more than necessary to keep those  
3 units in operation.

4 (D) No later than 7 days after the effective date of  
5 this amendatory Act of the 102nd General Assembly, the  
6 Agency shall publish its proposed carbon mitigation credit  
7 procurement plan. The Plan shall provide that winning bids  
8 shall be selected by taking into consideration which  
9 resources best match public interest criteria that  
10 include, but are not limited to, minimizing carbon dioxide  
11 emissions that result from electricity consumed in  
12 Illinois and minimizing sulfur dioxide, nitrogen oxide,  
13 and particulate matter emissions that adversely affect the  
14 citizens of this State. The selection of winning bids  
15 shall also take into account the incremental environmental  
16 benefits resulting from the procurement or procurements,  
17 such as any existing environmental benefits that are  
18 preserved by a procurement held under this subsection  
19 (d-10) and would cease to exist if the procurement were  
20 not held, including the preservation of carbon-free energy  
21 resources. For those bidders having the same public  
22 interest criteria score, the relative ranking of such  
23 bidders shall be determined by price. The Plan shall  
24 describe in detail how each public interest factor shall  
25 be considered and weighted in the bid selection process to  
26 ensure that the public interest criteria are applied to

1 the procurement. The Plan shall, to the extent practical  
2 and permissible by federal law, ensure that successful  
3 bidders make commercially reasonable efforts to apply for  
4 federal tax credits, direct payments, or similar subsidy  
5 programs that support carbon-free generation and for which  
6 the successful bidder is eligible. Upon publishing of the  
7 carbon mitigation credit procurement plan, copies of the  
8 plan shall be posted and made publicly available on the  
9 Agency's website. All interested parties shall have 7 days  
10 following the date of posting to provide comment to the  
11 Agency on the plan. All comments shall be posted to the  
12 Agency's website. Following the end of the comment period,  
13 but no more than 19 days later than the effective date of  
14 this amendatory Act of the 102nd General Assembly, the  
15 Agency shall revise the plan as necessary based on the  
16 comments received and file its carbon mitigation credit  
17 procurement plan with the Commission.

18 (E) If the Commission determines that the plan is  
19 likely to result in the procurement of cost-effective  
20 carbon mitigation credits, then the Commission shall,  
21 after notice and hearing and opportunity for comment, but  
22 no later than 42 days after the Agency filed the plan,  
23 approve the plan or approve it with modification. For  
24 purposes of this subsection (d-10), "cost-effective" means  
25 carbon mitigation credits that are procured from  
26 carbon-free energy resources at prices that are within the

1 limits specified in this paragraph (3). As part of the  
2 Commission's review and acceptance or rejection of the  
3 procurement results, the Commission shall, in its public  
4 notice of successful bidders:

5 (i) identify how the selected carbon-free energy  
6 resources satisfy the public interest criteria  
7 described in this paragraph (3) of minimizing carbon  
8 dioxide emissions that result from electricity  
9 consumed in Illinois and minimizing sulfur dioxide,  
10 nitrogen oxide, and particulate matter emissions that  
11 adversely affect the citizens of this State;

12 (ii) specifically address how the selection of  
13 carbon-free energy resources takes into account the  
14 incremental environmental benefits resulting from the  
15 procurement, including any existing environmental  
16 benefits that are preserved by the procurements held  
17 under this amendatory Act of the 102nd General  
18 Assembly and would have ceased to exist if the  
19 procurements had not been held, such as the  
20 preservation of carbon-free energy resources;

21 (iii) quantify the environmental benefit of  
22 preserving the carbon-free energy resources procured  
23 pursuant to this subsection (d-10), including the  
24 following:

25 (I) an assessment value of avoided greenhouse  
26 gas emissions measured as the product of the

1 carbon-free energy resources' output over the  
2 contract term, using generally accepted  
3 methodologies for the valuation of avoided  
4 emissions; and

5 (II) an assessment of costs of replacement  
6 with other carbon-free energy resources and  
7 renewable energy resources, including wind and  
8 photovoltaic generation, based upon an assessment  
9 of the prices paid for renewable energy credits  
10 through programs and procurements conducted  
11 pursuant to subsection (c) of Section 1-75 of this  
12 Act, and the additional storage necessary to  
13 produce the same or similar capability of matching  
14 customer usage patterns.

15 (F) The procurements described in this paragraph (3),  
16 including, but not limited to, the execution of all  
17 contracts procured, shall be completed no later than  
18 December 3, 2021. The procurement and plan approval  
19 processes required by this paragraph (3) shall be  
20 conducted in conjunction with the procurement and plan  
21 approval processes required by Section 16-111.5 of the  
22 Public Utilities Act, to the extent practicable. However,  
23 the Agency and Commission may, as appropriate, modify the  
24 various dates and timelines under this subparagraph and  
25 subparagraphs (D) and (E) of this paragraph (3) to meet  
26 the December 3, 2021 contract execution deadline.

1           Following the completion of such procurements, and  
2           consistent with this paragraph (3), the Agency shall  
3           calculate the payments to be made under each contract in a  
4           timely fashion.

5           (F-1) Costs incurred by the electric utility pursuant  
6           to a contract authorized by this subsection (d-10) shall  
7           be deemed prudently incurred and reasonable in amount, and  
8           the electric utility shall be entitled to full cost  
9           recovery pursuant to a tariff or tariffs filed with the  
10          Commission.

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

14          (H) If a carbon-free energy resource is sold to  
15          another owner, the rights, obligations, and commitments  
16          under this subsection (d-10) shall continue to the  
17          subsequent owner.

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

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

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

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

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

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

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

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

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

1           (a) The Planning and Procurement Bureau shall each year,  
2 beginning in 2008, develop procurement plans and conduct  
3 competitive procurement processes in accordance with the  
4 requirements of Section 16-111.5 of the Public Utilities Act  
5 for the eligible retail customers of electric utilities that  
6 on December 31, 2005 provided electric service to at least  
7 100,000 customers in Illinois. Beginning with the delivery  
8 year commencing on June 1, 2017, the Planning and Procurement  
9 Bureau shall develop plans and processes for the procurement  
10 of zero emission credits from zero emission facilities in  
11 accordance with the requirements of subsection (d-5) of this  
12 Section. Beginning on the effective date of this amendatory  
13 Act of the 102nd General Assembly, the Planning and  
14 Procurement Bureau shall develop plans and processes for the  
15 procurement of carbon mitigation credits from carbon-free  
16 energy resources in accordance with the requirements of  
17 subsection (d-10) of this Section. The Planning and  
18 Procurement Bureau shall also develop procurement plans and  
19 conduct competitive procurement processes in accordance with  
20 the requirements of Section 16-111.5 of the Public Utilities  
21 Act for the eligible retail customers of small  
22 multi-jurisdictional electric utilities that (i) on December  
23 31, 2005 served less than 100,000 customers in Illinois and  
24 (ii) request a procurement plan for their Illinois  
25 jurisdictional load. This Section shall not apply to a small  
26 multi-jurisdictional utility until such time as a small

1 multi-jurisdictional utility requests the Agency to prepare a  
2 procurement plan for their Illinois jurisdictional load. For  
3 the purposes of this Section, the term "eligible retail  
4 customers" has the same definition as found in Section  
5 16-111.5(a) of the Public Utilities Act.

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

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

24 (1) The Agency shall each year, beginning in 2008, as  
25 needed, issue a request for qualifications for experts or  
26 expert consulting firms to develop the procurement plans



1 in accordance with Section 16-111.5 of the Public  
2 Utilities Act. In order to qualify an expert or expert  
3 consulting firm must have:

4 (A) direct previous experience assembling  
5 large-scale power supply plans or portfolios for  
6 end-use customers;

7 (B) an advanced degree in economics, mathematics,  
8 engineering, risk management, or a related area of  
9 study;

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

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

16 (E) expertise in credit protocols and familiarity  
17 with contract protocols;

18 (F) adequate resources to perform and fulfill the  
19 required functions and responsibilities; and

20 (G) the absence of a conflict of interest and  
21 inappropriate bias for or against potential bidders or  
22 the affected electric utilities.

23 (2) The Agency shall each year, as needed, issue a  
24 request for qualifications for a procurement administrator  
25 to conduct the competitive procurement processes in  
26 accordance with Section 16-111.5 of the Public Utilities

1 Act. In order to qualify an expert or expert consulting  
2 firm must have:

3 (A) direct previous experience administering a  
4 large-scale competitive procurement process;

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

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

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

13 (E) expertise in credit and contract protocols;

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

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

19 (3) The Agency shall provide affected utilities and  
20 other interested parties with the lists of qualified  
21 experts or expert consulting firms identified through the  
22 request for qualifications processes that are under  
23 consideration to develop the procurement plans and to  
24 serve as the procurement administrator. The Agency shall  
25 also provide each qualified expert's or expert consulting  
26 firm's response to the request for qualifications. All

1 information provided under this subparagraph shall also be  
2 provided to the Commission. The Agency may provide by rule  
3 for fees associated with supplying the information to  
4 utilities and other interested parties. These parties  
5 shall, within 5 business days, notify the Agency in  
6 writing if they object to any experts or expert consulting  
7 firms on the lists. Objections shall be based on:

8 (A) failure to satisfy qualification criteria;

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

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

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

22 (4) The Agency shall issue requests for proposals to  
23 the qualified experts or expert consulting firms to  
24 develop a procurement plan for the affected utilities and  
25 to serve as procurement administrator.

26 (5) The Agency shall select an expert or expert

1 consulting firm to develop procurement plans based on the  
2 proposals submitted and shall award contracts of up to 5  
3 years to those selected.

4 (6) The Agency shall select an expert or expert  
5 consulting firm, with approval of the Commission, to serve  
6 as procurement administrator based on the proposals  
7 submitted. If the Commission rejects, within 5 days, the  
8 Agency's selection, the Agency shall submit another  
9 recommendation within 3 days based on the proposals  
10 submitted. The Agency shall award a 5-year contract to the  
11 expert or expert consulting firm so selected with  
12 Commission approval.

13 (b) The experts or expert consulting firms retained by the  
14 Agency shall, as appropriate, prepare procurement plans, and  
15 conduct a competitive procurement process as prescribed in  
16 Section 16-111.5 of the Public Utilities Act, to ensure  
17 adequate, reliable, affordable, efficient, and environmentally  
18 sustainable electric service at the lowest total cost over  
19 time, taking into account any benefits of price stability, for  
20 eligible retail customers of electric utilities that on  
21 December 31, 2005 provided electric service to at least  
22 100,000 customers in the State of Illinois, and for eligible  
23 Illinois retail customers of small multi-jurisdictional  
24 electric utilities that (i) on December 31, 2005 served less  
25 than 100,000 customers in Illinois and (ii) request a  
26 procurement plan for their Illinois jurisdictional load.

1 (c) Renewable portfolio standard.

2 (1) (A) The Agency shall develop a long-term renewable  
3 resources procurement plan that shall include procurement  
4 programs and competitive procurement events necessary to  
5 meet the goals set forth in this subsection (c). The  
6 initial long-term renewable resources procurement plan  
7 shall be released for comment no later than 160 days after  
8 June 1, 2017 (the effective date of Public Act 99-906).  
9 The Agency shall review, and may revise on an expedited  
10 basis, the long-term renewable resources procurement plan  
11 at least every 2 years, which shall be conducted in  
12 conjunction with the procurement plan under Section  
13 16-111.5 of the Public Utilities Act to the extent  
14 practicable to minimize administrative expense. No later  
15 than 120 days after the effective date of this amendatory  
16 Act of the 103rd General Assembly, the Agency shall  
17 release for comment a revision to the long-term renewable  
18 resources procurement plan, updating elements of the most  
19 recently approved plan as needed to comply with this  
20 amendatory Act of the 103rd General Assembly, and any  
21 long-term renewable resources procurement plan update  
22 published by the Agency but not yet approved by the  
23 Illinois Commerce Commission shall be withdrawn. The  
24 long-term renewable resources procurement plans shall be  
25 subject to review and approval by the Commission under  
26 Section 16-111.5 of the Public Utilities Act.

1           (B) Subject to subparagraph (F) of this paragraph (1),  
2           the long-term renewable resources procurement plan shall  
3           attempt to meet the goals for procurement of renewable  
4           energy credits at levels of at least the following overall  
5           percentages: 13% by the 2017 delivery year; increasing by  
6           at least 1.5% each delivery year thereafter to at least  
7           25% by the 2025 delivery year; increasing by at least 3%  
8           each delivery year thereafter to at least 40% by the 2030  
9           delivery year, and continuing at no less than 40% for each  
10          delivery year thereafter. The Agency shall attempt to  
11          procure 50% by delivery year 2040. The Agency shall  
12          determine the annual increase between delivery year 2030  
13          and delivery year 2040, if any, taking into account energy  
14          demand, other energy resources, and other public policy  
15          goals. In the event of a conflict between these goals and  
16          the new wind, new photovoltaic, and hydropower procurement  
17          requirements described in items (i) through (iii) of  
18          subparagraph (C) of this paragraph (1), the long-term plan  
19          shall prioritize compliance with the new wind, new  
20          photovoltaic, and hydropower procurement requirements  
21          described in items (i) through (iii) of subparagraph (C)  
22          of this paragraph (1) over the annual percentage targets  
23          described in this subparagraph (B). The Agency shall not  
24          comply with the annual percentage targets described in  
25          this subparagraph (B) by procuring renewable energy  
26          credits that are unlikely to lead to the development of

1 new renewable resources or new, modernized, or retooled  
2 hydropower facilities.

3 For the delivery year beginning June 1, 2017, the  
4 procurement plan shall attempt to include, subject to the  
5 prioritization outlined in this subparagraph (B),  
6 cost-effective renewable energy resources equal to at  
7 least 13% of each utility's load for eligible retail  
8 customers and 13% of the applicable portion of each  
9 utility's load for retail customers who are not eligible  
10 retail customers, which applicable portion shall equal 50%  
11 of the utility's load for retail customers who are not  
12 eligible retail customers on February 28, 2017.

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

23 For the delivery year beginning June 1, 2019, and for  
24 each year thereafter, the procurement plans shall attempt  
25 to include, subject to the prioritization outlined in this  
26 subparagraph (B), cost-effective renewable energy

1 resources equal to a minimum percentage of each utility's  
2 load for all retail customers as follows: 16% by June 1,  
3 2019; increasing by 1.5% each year thereafter to 25% by  
4 June 1, 2025; and 25% by June 1, 2026; increasing by at  
5 least 3% each delivery year thereafter to at least 40% by  
6 the 2030 delivery year, and continuing at no less than 40%  
7 for each delivery year thereafter. The Agency shall  
8 attempt to procure 50% by delivery year 2040. The Agency  
9 shall determine the annual increase between delivery year  
10 2030 and delivery year 2040, if any, taking into account  
11 energy demand, other energy resources, and other public  
12 policy goals.

13 For each delivery year, the Agency shall first  
14 recognize each utility's obligations for that delivery  
15 year under existing contracts. Any renewable energy  
16 credits under existing contracts, including renewable  
17 energy credits as part of renewable energy resources,  
18 shall be used to meet the goals set forth in this  
19 subsection (c) for the delivery year.

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

24 (i) At least 10,000,000 renewable energy credits  
25 delivered annually by the end of the 2021 delivery  
26 year, and increasing ratably to reach 45,000,000



1 renewable energy credits delivered annually from new  
2 wind and solar projects by the end of delivery year  
3 2030 such that the goals in subparagraph (B) of this  
4 paragraph (1) are met entirely by procurements of  
5 renewable energy credits from new wind and  
6 photovoltaic projects. Of that amount, to the extent  
7 possible, the Agency shall procure 45% from wind and  
8 hydropower projects and 55% from photovoltaic  
9 projects. Of the amount to be procured from  
10 photovoltaic projects, the Agency shall procure: at  
11 least 50% from solar photovoltaic projects using the  
12 program outlined in subparagraph (K) of this paragraph  
13 (1) from distributed renewable energy generation  
14 devices or community renewable generation projects; at  
15 least 47% from utility-scale solar projects; at least  
16 3% from brownfield site photovoltaic projects that are  
17 not community renewable generation projects.

18 In developing the long-term renewable resources  
19 procurement plan, the Agency shall consider other  
20 approaches, in addition to competitive procurements,  
21 that can be used to procure renewable energy credits  
22 from brownfield site photovoltaic projects and thereby  
23 help return blighted or contaminated land to  
24 productive use while enhancing public health and the  
25 well-being of Illinois residents, including those in  
26 environmental justice communities, as defined using

1 existing methodologies and findings used by the Agency  
2 and its Administrator in its Illinois Solar for All  
3 Program. The Agency shall also consider other  
4 approaches, in addition to competitive procurements,  
5 to procure renewable energy credits from new and  
6 existing hydropower facilities to support the  
7 development and maintenance of these facilities. The  
8 Agency shall explore options to convert existing dams  
9 but shall not consider approaches to develop new dams  
10 where they do not already exist.

11 (ii) In any given delivery year, if forecasted  
12 expenses are less than the maximum budget available  
13 under subparagraph (E) of this paragraph (1), the  
14 Agency shall continue to procure new renewable energy  
15 credits until that budget is exhausted in the manner  
16 outlined in item (i) of this subparagraph (C).

17 (iii) For purposes of this Section:

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

21 "New photovoltaic projects" means photovoltaic  
22 renewable energy facilities that are energized after  
23 June 1, 2017. Photovoltaic projects developed under  
24 Section 1-56 of this Act shall not apply towards the  
25 new photovoltaic project requirements in this  
26 subparagraph (C).

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

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

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

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

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

15 Notwithstanding the requirements of this subsection  
16 (c), the total of renewable energy resources procured  
17 under the procurement plan for any single year shall be  
18 subject to the limitations of this subparagraph (E). Such  
19 procurement shall be reduced for all retail customers  
20 based on the amount necessary to limit the annual  
21 estimated average net increase due to the costs of these  
22 resources included in the amounts paid by eligible retail  
23 customers in connection with electric service to no more  
24 than 4.25% of the amount paid per kilowatthour by those  
25 customers during the year ending May 31, 2009. To arrive  
26 at a maximum dollar amount of renewable energy resources

1 to be procured for the particular delivery year, the  
2 resulting per kilowatthour amount shall be applied to the  
3 actual amount of kilowatthours of electricity delivered,  
4 or applicable portion of such amount as specified in  
5 paragraph (1) of this subsection (c), as applicable, by  
6 the electric utility in the delivery year immediately  
7 prior to the procurement to all retail customers in its  
8 service territory. The calculations required by this  
9 subparagraph (E) shall be made only once for each delivery  
10 year at the time that the renewable energy resources are  
11 procured. Once the determination as to the amount of  
12 renewable energy resources to procure is made based on the  
13 calculations set forth in this subparagraph (E) and the  
14 contracts procuring those amounts are executed, no  
15 subsequent rate impact determinations shall be made and no  
16 adjustments to those contract amounts shall be allowed.  
17 All costs incurred under such contracts shall be fully  
18 recoverable by the electric utility as provided in this  
19 Section.

20 (F) If the limitation on the amount of renewable  
21 energy resources procured in subparagraph (E) of this  
22 paragraph (1) prevents the Agency from meeting all of the  
23 goals in this subsection (c), the Agency's long-term plan  
24 shall prioritize compliance with the requirements of this  
25 subsection (c) regarding renewable energy credits in the  
26 following order:

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

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

6 (ii) renewable energy credits necessary to comply  
7 with the new wind and new photovoltaic procurement  
8 requirements described in items (i) through (iii) of  
9 subparagraph (C) of this paragraph (1); and

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

12 (G) The following provisions shall apply to the  
13 Agency's procurement of renewable energy credits under  
14 this subsection (c):

15 (i) Notwithstanding whether a long-term renewable  
16 resources procurement plan has been approved, the  
17 Agency shall conduct an initial forward procurement  
18 for renewable energy credits from new utility-scale  
19 wind projects within 160 days after June 1, 2017 (the  
20 effective date of Public Act 99-906). For the purposes  
21 of this initial forward procurement, the Agency shall  
22 solicit 15-year contracts for delivery of 1,000,000  
23 renewable energy credits delivered annually from new  
24 utility-scale wind projects to begin delivery on June  
25 1, 2019, if available, but not later than June 1, 2021,  
26 unless the project has delays in the establishment of

1 an operating interconnection with the applicable  
2 transmission or distribution system as a result of the  
3 actions or inactions of the transmission or  
4 distribution provider, or other causes for force  
5 majeure as outlined in the procurement contract, in  
6 which case, not later than June 1, 2022. Payments to  
7 suppliers of renewable energy credits shall commence  
8 upon delivery. Renewable energy credits procured under  
9 this initial procurement shall be included in the  
10 Agency's long-term plan and shall apply to all  
11 renewable energy goals in this subsection (c).

12 (ii) Notwithstanding whether a long-term renewable  
13 resources procurement plan has been approved, the  
14 Agency shall conduct an initial forward procurement  
15 for renewable energy credits from new utility-scale  
16 solar projects and brownfield site photovoltaic  
17 projects within one year after June 1, 2017 (the  
18 effective date of Public Act 99-906). For the purposes  
19 of this initial forward procurement, the Agency shall  
20 solicit 15-year contracts for delivery of 1,000,000  
21 renewable energy credits delivered annually from new  
22 utility-scale solar projects and brownfield site  
23 photovoltaic projects to begin delivery on June 1,  
24 2019, if available, but not later than June 1, 2021,  
25 unless the project has delays in the establishment of  
26 an operating interconnection with the applicable



1 transmission or distribution system as a result of the  
2 actions or inactions of the transmission or  
3 distribution provider, or other causes for force  
4 majeure as outlined in the procurement contract, in  
5 which case, not later than June 1, 2022. The Agency may  
6 structure this initial procurement in one or more  
7 discrete procurement events. Payments to suppliers of  
8 renewable energy credits shall commence upon delivery.  
9 Renewable energy credits procured under this initial  
10 procurement shall be included in the Agency's  
11 long-term plan and shall apply to all renewable energy  
12 goals in this subsection (c).

13 (iii) Notwithstanding whether the Commission has  
14 approved the periodic long-term renewable resources  
15 procurement plan revision described in Section  
16 16-111.5 of the Public Utilities Act, the Agency shall  
17 conduct at least one subsequent forward procurement  
18 for renewable energy credits from new utility-scale  
19 wind projects, new utility-scale solar projects, and  
20 new brownfield site photovoltaic projects within 240  
21 days after the effective date of this amendatory Act  
22 of the 102nd General Assembly in quantities necessary  
23 to meet the requirements of subparagraph (C) of this  
24 paragraph (1) through the delivery year beginning June  
25 1, 2021.

26 (iv) Notwithstanding whether the Commission has

1 approved the periodic long-term renewable resources  
2 procurement plan revision described in Section  
3 16-111.5 of the Public Utilities Act, the Agency shall  
4 open capacity for each category in the Adjustable  
5 Block program within 90 days after the effective date  
6 of this amendatory Act of the 102nd General Assembly  
7 manner:

8 (1) The Agency shall open the first block of  
9 annual capacity for the category described in item  
10 (i) of subparagraph (K) of this paragraph (1). The  
11 first block of annual capacity for item (i) shall  
12 be for at least 75 megawatts of total nameplate  
13 capacity. The price of the renewable energy credit  
14 for this block of capacity shall be 4% less than  
15 the price of the last open block in this category.  
16 Projects on a waitlist shall be awarded contracts  
17 first in the order in which they appear on the  
18 waitlist. Notwithstanding anything to the  
19 contrary, for those renewable energy credits that  
20 qualify and are procured under this subitem (1) of  
21 this item (iv), the renewable energy credit  
22 delivery contract value shall be paid in full,  
23 based on the estimated generation during the first  
24 15 years of operation, by the contracting  
25 utilities at the time that the facility producing  
26 the renewable energy credits is interconnected at

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

10 (2) The Agency shall open the first block of  
11 annual capacity for the category described in item  
12 (ii) of subparagraph (K) of this paragraph (1).  
13 The first block of annual capacity for item (ii)  
14 shall be for at least 75 megawatts of total  
15 nameplate capacity.

16 (A) The price of the renewable energy  
17 credit for any project on a waitlist for this  
18 category before the opening of this block  
19 shall be 4% less than the price of the last  
20 open block in this category. Projects on the  
21 waitlist shall be awarded contracts first in  
22 the order in which they appear on the  
23 waitlist. Any projects that are less than or  
24 equal to 25 kilowatts in size on the waitlist  
25 for this capacity shall be moved to the  
26 waitlist for paragraph (1) of this item (iv).

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

1 the counterparty electric utility.

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

17 (3) For opening the first 2 blocks of annual  
18 capacity for projects participating in item (iii)  
19 of subparagraph (K) of paragraph (1) of subsection  
20 (c), projects shall be selected exclusively from  
21 those projects on the ordinal waitlists of  
22 community renewable generation projects  
23 established by the Agency based on the status of  
24 those ordinal waitlists as of December 31, 2020,  
25 and only those projects previously determined to  
26 be eligible for the Agency's April 2019 community

1 solar project selection process.

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

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

15 (B) Contract awards for waitlisted  
16 projects shall be allocated proportionate to  
17 the total nameplate capacity amount across  
18 both ordinal waitlists associated with that  
19 applicant firm or its affiliates, subject to  
20 the following conditions.

21 (i) Each applicant firm having a  
22 waitlisted project eligible for selection  
23 shall receive no less than 500 kilowatts  
24 in awarded capacity across all groups, and  
25 no approved vendor may receive more than  
26 20% of each Group's waitlist allocation.

1           (ii) Each applicant firm, upon  
2 receiving an award of program capacity  
3 proportionate to its waitlisted capacity,  
4 may then determine which waitlisted  
5 projects it chooses to be selected for a  
6 contract award up to that capacity amount.

7           (iii) Assuming all other program  
8 requirements are met, applicant firms may  
9 adjust the nameplate capacity of applicant  
10 projects without losing waitlist  
11 eligibility, so long as no project is  
12 greater than 2,000 kilowatts in size.

13           (iv) Assuming all other program  
14 requirements are met, applicant firms may  
15 adjust the expected production associated  
16 with applicant projects, subject to  
17 verification by the Program Administrator.

18           (C) After a review of affiliate  
19 information and the current ordinal waitlists,  
20 the Agency shall announce the nameplate  
21 capacity award amounts associated with  
22 applicant firms no later than 90 days after  
23 the effective date of this amendatory Act of  
24 the 102nd General Assembly.

25           (D) Applicant firms shall submit their  
26 portfolio of projects used to satisfy those

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

18 (E) The renewable energy credit delivery  
19 contract shall be subject to the contract and  
20 payment terms outlined in item (iv) of  
21 subparagraph (L) of this subsection (c).  
22 Contract instruments used for this  
23 subparagraph shall contain the following  
24 terms:

25 (i) Renewable energy credit prices  
26 shall be fixed, without further adjustment



1 under any other provision of this Act or  
2 for any other reason, at 10% lower than  
3 prices applicable to the last open block  
4 for this category, inclusive of any adders  
5 available for achieving a minimum of 50%  
6 of subscribers to the project's nameplate  
7 capacity being residential or small  
8 commercial customers with subscriptions of  
9 below 25 kilowatts in size;

10 (ii) A requirement that a minimum of  
11 50% of subscribers to the project's  
12 nameplate capacity be residential or small  
13 commercial customers with subscriptions of  
14 below 25 kilowatts in size;

15 (iii) Permission for the ability of a  
16 contract holder to substitute projects  
17 with other waitlisted projects without  
18 penalty should a project receive a  
19 non-binding estimate of costs to construct  
20 the interconnection facilities and any  
21 required distribution upgrades associated  
22 with that project of greater than 30 cents  
23 per watt AC of that project's nameplate  
24 capacity. In developing the applicable  
25 contract instrument, the Agency may  
26 consider whether other circumstances

1 outside of the control of the applicant  
2 firm should also warrant project  
3 substitution rights.

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

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

17 (4) The Agency shall open the first block of  
18 annual capacity for the category described in item  
19 (iv) of subparagraph (K) of this paragraph (1).  
20 The first block of annual capacity for item (iv)  
21 shall be for at least 50 megawatts of total  
22 nameplate capacity. Renewable energy credit prices  
23 shall be fixed, without further adjustment under  
24 any other provision of this Act or for any other  
25 reason, at the price in the last open block in the  
26 category described in item (ii) of subparagraph

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

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

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

22          (v) Upon the effective date of this amendatory Act  
23          of the 102nd General Assembly, for all competitive  
24          procurements and any procurements of renewable energy  
25          credit from new utility-scale wind and new  
26          utility-scale photovoltaic projects, the Agency shall

1 procure indexed renewable energy credits and direct  
2 respondents to offer a strike price.

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

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

21 (3) To ensure funding in the annual budget  
22 established under subparagraph (E) for indexed  
23 renewable energy credit procurements for each year  
24 of the term of such contracts, which must have a  
25 minimum tenure of 20 calendar years, the  
26 procurement administrator, Agency, Commission

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

1 Agency's most recent long-term renewable resources  
2 procurement plan. If the expected contract spend  
3 is higher or lower than the total quantity of  
4 contracts multiplied by the forward price curve  
5 value for that year, the forward price curve shall  
6 be updated by the procurement administrator, in  
7 consultation with the Agency, Commission staff,  
8 and procurement monitors, using then-currently  
9 available price forecast data and additional  
10 budget dollars shall be obligated or reobligated  
11 as appropriate.

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

22 (vi) All procurements under this subparagraph (G),  
23 including the procurement of renewable energy credits  
24 from hydropower facilities, shall comply with the  
25 geographic requirements in subparagraph (I) of this  
26 paragraph (1) and shall follow the procurement

1 processes and procedures described in this Section and  
2 Section 16-111.5 of the Public Utilities Act to the  
3 extent practicable, and these processes and procedures  
4 may be expedited to accommodate the schedule  
5 established by this subparagraph (G).

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

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

25 (i) Within 45 days after June 1, 2017 (the  
26 effective date of Public Act 99-906), an alternative



1 retail electric supplier or its successor shall submit  
2 an informational filing to the Illinois Commerce  
3 Commission certifying that, as of December 31, 2015,  
4 the alternative retail electric supplier owned one or  
5 more electric generating facilities that generates  
6 renewable energy resources as defined in Section 1-10  
7 of this Act, provided that such facilities are not  
8 powered by wind or photovoltaics, and the facilities  
9 generate one renewable energy credit for each  
10 megawatthour of energy produced from the facility.

11 The informational filing shall identify each  
12 facility that was eligible to satisfy the alternative  
13 retail electric supplier's obligations under Section  
14 16-115D of the Public Utilities Act as described in  
15 this item (i).

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

22 (iii) The alternative retail electric supplier  
23 shall notify the Agency and the applicable utility, no  
24 later than February 28 of the year preceding the  
25 applicable delivery year or 15 days after June 1, 2017  
26 (the effective date of Public Act 99-906), whichever

1 is later, of its election under item (ii) of this  
2 subparagraph (H) to supply renewable energy credits to  
3 retail customers of the utility. Such election shall  
4 identify the amount of renewable energy credits to be  
5 supplied by the alternative retail electric supplier  
6 to the utility's retail customers and the source of  
7 the renewable energy credits identified in the  
8 informational filing as described in item (i) of this  
9 subparagraph (H), subject to the following  
10 limitations:

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

21 For delivery years beginning June 1, 2019 and  
22 each year thereafter, the maximum amount of  
23 renewable energy credits to be supplied by an  
24 alternative retail electric supplier under this  
25 subparagraph (H) shall be 68% multiplied by 50%  
26 multiplied by 16% multiplied by the amount of

1 metered electricity (megawatt-hours) delivered by  
2 the alternative retail electric supplier to  
3 Illinois retail customers during the delivery year  
4 ending May 31, 2016, provided that the 16% value  
5 shall increase by 1.5% each delivery year  
6 thereafter to 25% by the delivery year beginning  
7 June 1, 2025, and thereafter the 25% value shall  
8 apply to each delivery year.

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

22 If the requirements set forth in items (i) through  
23 (iii) of this subparagraph (H) are met, the charges  
24 that would otherwise be applicable to the retail  
25 customers of the alternative retail electric supplier  
26 under paragraph (6) of this subsection (c) for the

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

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

19 (I) The Agency shall design its long-term renewable  
20 energy procurement plan to maximize the State's interest  
21 in the health, safety, and welfare of its residents,  
22 including but not limited to minimizing sulfur dioxide,  
23 nitrogen oxide, particulate matter and other pollution  
24 that adversely affects public health in this State,  
25 increasing fuel and resource diversity in this State,  
26 enhancing the reliability and resiliency of the

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

1 voltage direct current converter station if the high  
2 voltage direct current transmission line: (i) after the  
3 effective date of this amendatory Act of the 102nd General  
4 Assembly, was constructed with a project labor agreement;  
5 (ii) is capable of transmitting electricity at 525kv;  
6 (iii) has an Illinois converter station located and  
7 interconnected in the region of the PJM Interconnection,  
8 LLC; (iv) does not operate as a public utility; and (v) if  
9 the high voltage direct current transmission line was  
10 energized after June 1, 2023. To ensure that the public  
11 interest criteria are applied to the procurement and given  
12 full effect, the Agency's long-term procurement plan shall  
13 describe in detail how each public interest factor shall  
14 be considered and weighted for facilities located in  
15 states adjacent to Illinois.

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

1 generating unit supplying the renewable energy credits  
2 subsequently begin to be recovered through rates regulated  
3 by this State or any other state or states; and each  
4 contract shall further provide that, in that event, the  
5 supplier of the credits must return 110% of all payments  
6 received under the contract. Amounts returned under the  
7 requirements of this subparagraph (J) shall be retained by  
8 the utility and all of these amounts shall be used for the  
9 procurement of additional renewable energy credits from  
10 new wind or new photovoltaic resources as defined in this  
11 subsection (c). The long-term plan shall provide that  
12 these renewable energy credits shall be procured in the  
13 next procurement event.

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

1 eligible to be counted toward the renewable energy  
2 requirements of this subsection (c).

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

20 The Adjustable Block program shall include for each  
21 category of eligible projects for each delivery year: a  
22 single block of nameplate capacity, a price for renewable  
23 energy credits within that block, and the terms and  
24 conditions for securing a spot on a waitlist once the  
25 block is fully committed or reserved. Except as outlined  
26 below, the waitlist of projects in a given year will carry



1 over to apply to the subsequent year when another block is  
2 opened. Only projects energized on or after June 1, 2017  
3 shall be eligible for the Adjustable Block program. For  
4 each category for each delivery year the Agency shall  
5 determine the amount of generation capacity in each block,  
6 and the purchase price for each block, provided that the  
7 purchase price provided and the total amount of generation  
8 in all blocks for all categories shall be sufficient to  
9 meet the goals in this subsection (c). The Agency shall  
10 strive to issue a single block sized to provide for  
11 stability and market growth. The Agency shall establish  
12 program eligibility requirements that ensure that projects  
13 that enter the program are sufficiently mature to indicate  
14 a demonstrable path to completion. The Agency may  
15 periodically review its prior decisions establishing the  
16 amount of generation capacity in each block, and the  
17 purchase price for each block, and may propose, on an  
18 expedited basis, changes to these previously set values,  
19 including but not limited to redistributing these amounts  
20 and the available funds as necessary and appropriate,  
21 subject to Commission approval as part of the periodic  
22 plan revision process described in Section 16-111.5 of the  
23 Public Utilities Act. The Agency may define different  
24 block sizes, purchase prices, or other distinct terms and  
25 conditions for projects located in different utility  
26 service territories if the Agency deems it necessary to

1 meet the goals in this subsection (c).

2 The Adjustable Block program shall include the  
3 following categories in at least the following amounts:

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

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

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

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

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

9 (3) projects shall not be colocated with one  
10 or more other community renewable generation  
11 projects, as defined in the Agency's first revised  
12 long-term renewable resources procurement plan  
13 approved by the Commission on February 18, 2020,  
14 such that the aggregate nameplate capacity exceeds  
15 5,000 kilowatts; and

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

21 (iv) At least 15% from distributed renewable  
22 generation devices or photovoltaic community renewable  
23 generation projects installed on ~~at~~ public school land  
24 ~~schools~~. The Agency may create subcategories within  
25 this category to account for the differences between  
26 project size or location. Projects located within

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

19 "Environmental Justice Community" shall have the  
20 same meaning set forth in the Agency's long-term  
21 renewable resources procurement plan;

22 "Organization Unit", "Tier 1" and "Tier 2" shall  
23 have the meanings set for in Section 18-8.15 of the  
24 School Code;

25 "Public schools" shall have the meaning set forth  
26 in Section 1-3 of the School Code and includes public

1           institutions of higher education, as defined in the  
2           Board of Higher Education Act.

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

17                 (1) community ownership or community  
18                 wealth-building;

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

24                 (3) meaningful involvement in project  
25                 organization and development by community members  
26                 or nonprofit organizations or public entities

1 located in or serving the community;

2 (4) engagement in project operations and  
3 management by nonprofit organizations, public  
4 entities, or community members; and

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

9 Selection criteria may also prioritize projects

10 that:

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

19 (2) increase the diversity of locations of  
20 community solar projects in Illinois, including by  
21 locating in urban areas and population centers;

22 (3) are located in Equity Investment Eligible  
23 Communities;

24 (4) are not greenfield projects;

25 (5) serve only local subscribers;

26 (6) have a nameplate capacity that does not

1 exceed 500 kW;

2 (7) are developed by an equity eligible  
3 contractor; or

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

10 For the purposes of this item (v):

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

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

1           "Community ownership" means an arrangement in  
2           which an electric generating facility is, or over time  
3           will be, in significant part, owned collectively by  
4           members of the community to which an electric  
5           generating facility provides benefits; members of that  
6           community participate in decisions regarding the  
7           governance, operation, maintenance, and upgrades of  
8           and to that facility; and members of that community  
9           benefit from regular use of that facility.

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

20           (vi) At least 10% from distributed renewable  
21           energy generation devices, which includes distributed  
22           renewable energy devices with a nameplate capacity  
23           under 5,000 kilowatts or photovoltaic community  
24           renewable generation projects, from applicants that  
25           are equity eligible contractors. The Agency may create  
26           subcategories within this category to account for the



1 differences between project size and type. The Agency  
2 shall propose to increase the percentage in this item  
3 (vi) over time to 40% based on factors, including, but  
4 not limited to, the number of equity eligible  
5 contractors and capacity used in this item (vi) in  
6 previous delivery years.

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

25 Contracts developed featuring capital advanced  
26 prior to a project's energization shall feature

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

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

23 To the extent there is uncontracted capacity from any  
24 block in any of categories (i) through (vi) at the end of a  
25 delivery year, the Agency shall redistribute that capacity  
26 to one or more other categories giving priority to

1 categories with projects on a waitlist. The redistributed  
2 capacity shall be added to the annual capacity in the  
3 subsequent delivery year, and the price for renewable  
4 energy credits shall be the price for the new delivery  
5 year. Redistributed capacity shall not be considered  
6 redistributed when determining whether the goals in this  
7 subsection (K) have been met.

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

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

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

24 (i) (Blank).

25 (ii) For those renewable energy credits that  
26 qualify and are procured under item (i) of

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

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

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

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

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

1           20-year delivery contract, REC prices shall be  
2           adjusted downward for consistency with the incentive  
3           levels previously determined to be necessary to  
4           support projects under 15-year delivery contracts,  
5           taking into consideration any additional new  
6           requirements placed on the projects, including, but  
7           not limited to, labor standards.

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

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

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

1           (viii) Nothing in this Section shall require the  
2 utility to advance any payment or pay any amounts that  
3 exceed the actual amount of revenues anticipated to be  
4 collected by the utility under paragraph (6) of this  
5 subsection (c) and subsection (k) of Section 16-108 of  
6 the Public Utilities Act inclusive of eligible funds  
7 collected in prior years and alternative compliance  
8 payments for use by the utility, and contracts  
9 executed under this Section shall expressly  
10 incorporate this limitation.

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

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

24           (M) The Agency shall be authorized to retain one or  
25 more experts or expert consulting firms to develop,  
26 administer, implement, operate, and evaluate the



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

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

25       In addition to covering the costs of program  
26      administration, the Agency, in conjunction with its

1 Program Administrator, may also use the proceeds of such  
2 fees charged to participating firms to support public  
3 education and ongoing regional and national coordination  
4 with nonprofit organizations, public bodies, and others  
5 engaged in the implementation of renewable energy  
6 incentive programs or similar initiatives. This work may  
7 include developing papers and reports, hosting regional  
8 and national conferences, and other work deemed necessary  
9 by the Agency to position the State of Illinois as a  
10 national leader in renewable energy incentive program  
11 development and administration.

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

1 Act. The Agency shall consider stakeholder feedback when  
2 making adjustments to the Adjustable Block design and  
3 shall notify stakeholders in advance of any planned  
4 changes.

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

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

1 failed to comply with contract terms, the law, or  
2 other program requirements.

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

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

23 (iv) The Agency shall establish one or multiple  
24 Consumer Complaints Centers to accept complaints  
25 regarding businesses that participate in, or otherwise  
26 benefit from, State-administered incentive funding

1 through Agency-administered programs. The Agency shall  
2 maintain a public database of complaints with any  
3 confidential or particularly sensitive information  
4 redacted from public entries.

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

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

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

25 (N) The Agency shall establish the terms, conditions,  
26 and program requirements for photovoltaic community

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

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

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

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

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

21          (O) For the delivery year beginning June 1, 2018, the  
22          long-term renewable resources procurement plan required by  
23          this subsection (c) shall provide for the Agency to  
24          procure contracts to continue offering the Illinois Solar  
25          for All Program described in subsection (b) of Section  
26          1-56 of this Act, and the contracts approved by the

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

24 (P) All programs and procurements under this  
25 subsection (c) shall be designed to encourage  
26 participating projects to use a diverse and equitable



1 workforce and a diverse set of contractors, including  
2 minority-owned businesses, disadvantaged businesses,  
3 trade unions, graduates of any workforce training programs  
4 administered under this Act, and small businesses.

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

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

1           (1) Each facility shall be subject to the  
2 prevailing wage requirements included in the  
3 Prevailing Wage Act. The Agency shall require  
4 verification that all construction performed on the  
5 facility by the renewable energy credit delivery  
6 contract holder, its contractors, or its  
7 subcontractors relating to construction of the  
8 facility is performed by construction employees  
9 receiving an amount for that work equal to or greater  
10 than the general prevailing rate, as that term is  
11 defined in Section 3 of the Prevailing Wage Act. For  
12 purposes of this item (1), "house of worship" means  
13 property that is both (1) used exclusively by a  
14 religious society or body of persons as a place for  
15 religious exercise or religious worship and (2)  
16 recognized as exempt from taxation pursuant to Section  
17 15-40 of the Property Tax Code. This item (1) shall  
18 apply to any the following:

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

20                   (ii) all new utility-scale photovoltaic  
21 projects;

22                   (iii) all new brownfield photovoltaic  
23 projects;

24                   (iv) all new photovoltaic community renewable  
25 energy facilities that qualify for item (iii) of  
26 subparagraph (K) of this paragraph (1);

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

4           (vi) all new photovoltaic projects on public  
5 school land ~~distributed renewable energy~~  
6 ~~generation devices on schools~~ that qualify for  
7 item (iv) of subparagraph (K) of this paragraph  
8 (1);

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

25           (ix) all new, modernized, or retooled  
26 hydropower facilities.

1           (2) Renewable energy credits procured from new  
2 utility-scale wind projects, new utility-scale solar  
3 projects, and new brownfield solar projects pursuant  
4 to Agency procurement events occurring after the  
5 effective date of this amendatory Act of the 102nd  
6 General Assembly must be from facilities built by  
7 general contractors that must enter into a project  
8 labor agreement, as defined by this Act, prior to  
9 construction. The project labor agreement shall be  
10 filed with the Director in accordance with procedures  
11 established by the Agency through its long-term  
12 renewable resources procurement plan. Any information  
13 submitted to the Agency in this item (2) shall be  
14 considered commercially sensitive information. At a  
15 minimum, the project labor agreement must provide the  
16 names, addresses, and occupations of the owner of the  
17 plant and the individuals representing the labor  
18 organization employees participating in the project  
19 labor agreement consistent with the Project Labor  
20 Agreements Act. The agreement must also specify the  
21 terms and conditions as defined by this Act.

22           (3) It is the intent of this Section to ensure that  
23 economic development occurs across Illinois  
24 communities, that emerging businesses may grow, and  
25 that there is improved access to the clean energy  
26 economy by persons who have greater economic burdens

1 to success. The Agency shall take into consideration  
2 the unique cost of compliance of this subparagraph (Q)  
3 that might be borne by equity eligible contractors,  
4 shall include such costs when determining the price of  
5 renewable energy credits in the Adjustable Block  
6 program, and shall take such costs into consideration  
7 in a nondiscriminatory manner when comparing bids for  
8 competitive procurements. The Agency shall consider  
9 costs associated with compliance whether in the  
10 development, financing, or construction of projects.  
11 The Agency shall periodically review the assumptions  
12 in these costs and may adjust prices, in compliance  
13 with subparagraph (M) of this paragraph (1).

14 (R) In its long-term renewable resources procurement  
15 plan, the Agency shall establish a self-direct renewable  
16 portfolio standard compliance program for eligible  
17 self-direct customers that purchase renewable energy  
18 credits from utility-scale wind and solar projects through  
19 long-term agreements for purchase of renewable energy  
20 credits as described in this Section. Such long-term  
21 agreements may include the purchase of energy or other  
22 products on a physical or financial basis and may involve  
23 an alternative retail electric supplier as defined in  
24 Section 16-102 of the Public Utilities Act. This program  
25 shall take effect in the delivery year commencing June 1,  
26 2023.

1 (1) For the purposes of this subparagraph:

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

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

20 (2) For renewable energy credits to count toward  
21 the self-direct renewable portfolio standard  
22 compliance program, they must:

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

25 (ii) be sourced from one or more renewable  
26 energy generating facilities that comply with the

1 geographic requirements as set forth in  
2 subparagraph (I) of paragraph (1) of subsection  
3 (c) as interpreted through the Agency's long-term  
4 renewable resources procurement plan, or, where  
5 applicable, the geographic requirements that  
6 governed utility-scale renewable energy credits at  
7 the time the eligible self-direct customer entered  
8 into the applicable renewable energy credit  
9 purchase agreement;

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

19 (iv) be equivalent in volume to at least 40%  
20 of the eligible self-direct customer's usage,  
21 determined annually by the eligible self-direct  
22 customer's usage during the previous delivery  
23 year, measured to the nearest megawatt-hour;

24 (v) be retired by or on behalf of the large  
25 energy customer;

26 (vi) be sourced from new utility-scale wind

1 projects or new utility-scale solar projects; and

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

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



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

20 (4) The Commission shall approve a reduction in  
21 the volumetric charges collected pursuant to Section  
22 16-108 of the Public Utilities Act for approved  
23 eligible self-direct customers equivalent to the  
24 anticipated cost of renewable energy credit deliveries  
25 under contracts for new utility-scale wind and new  
26 utility-scale solar entered for each delivery year

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

1           thereafter.

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

14           (i) the customer's certification that, at the  
15 time of the customer's application, the customer  
16 qualifies to be a self-direct eligible customer,  
17 including documents demonstrating that  
18 qualification;

19           (ii) the customer's certification that the  
20 customer has entered into or will enter into by  
21 the beginning of the applicable procurement year,  
22 one or more bilateral contracts for new wind  
23 projects or new photovoltaic projects, including  
24 supporting documentation;

25           (iii) certification that the contract or  
26 contracts for new renewable energy resources are

1 long-term contracts with term lengths of at least  
2 10 years, including supporting documentation;

3 (iv) certification of the quantities of  
4 renewable energy credits that the customer will  
5 purchase each year under such contract or  
6 contracts, including supporting documentation;

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

12 (vi) certification that the customer intends  
13 to maintain the contract for the duration of the  
14 length of the contract.

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

1 self-direct renewable portfolio standard compliance  
2 program.

3 (2) (Blank).

4 (3) (Blank).

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

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

1 spending on the purchase of renewable energy resources to  
2 be procured by the electric utility for the next plan year  
3 by an amount equal to the amounts collected by the utility  
4 under the alternative compliance payment rate or rates in  
5 the prior year ending May 31.

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

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

24 In meeting the renewable energy requirements of this  
25 subsection (c), to the extent feasible and consistent with  
26 State and federal law, the renewable energy credit

1 procurements, Adjustable Block solar program, and  
2 community renewable generation program shall provide  
3 employment opportunities for all segments of the  
4 population and workforce, including minority-owned and  
5 female-owned business enterprises, and shall not,  
6 consistent with State and federal law, discriminate based  
7 on race or socioeconomic status.

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

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

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

20 (2) The Agency shall conduct 2 procurement events to  
21 select owners of electric generating facilities meeting  
22 the eligibility criteria specified in this subsection  
23 (c-5) to enter into long-term contracts to sell renewable  
24 energy credits to electric utilities serving more than  
25 300,000 retail customers in this State as of January 1,  
26 2019. The first procurement event shall be conducted no



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

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

1 event; or (ii) still operating as of the date of the  
2 procurement event.

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

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

1           the existing property, at which the electric  
2           generating facility identified in paragraph (A) is  
3           located: (i) a new renewable energy facility of at  
4           least 5 megawatts but no more than 20 megawatts of  
5           electric generating capacity, and (ii) an energy  
6           storage facility having a storage capacity equal to at  
7           least 0.5 megawatts and at most one megawatt.

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

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

1 function.

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

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

26 (H) The applicant commits to enter into a contract

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

19 (I) The applicant's application is certified by an  
20 officer of the applicant and by an officer of the  
21 applicant's ultimate parent company, if any.

22 (3) An applicant may submit applications to contract  
23 to supply renewable energy credits from more than one new  
24 renewable energy facility to be constructed at or adjacent  
25 to one or more qualifying electric generating facilities  
26 owned by the applicant. The Agency may select new

1 renewable energy facilities to be located at or adjacent  
2 to the sites of more than one qualifying electric  
3 generation facility owned by an applicant to contract with  
4 electric utilities to supply renewable energy credits from  
5 such facilities.

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

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

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

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

1 sale and purchase of renewable energy credits from each  
2 new renewable energy facility to be constructed and  
3 operated by the applicant, with the sale and purchase  
4 obligations under the contracts to aggregate to the total  
5 number of renewable energy credits per year to be supplied  
6 by the applicant from the new renewable energy facility.

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

21 (8) The Agency, in conjunction with its procurement  
22 administrator if one is retained, the electric utilities,  
23 and potential applicants for contracts to produce and  
24 supply renewable energy credits pursuant to this  
25 subsection (c-5), shall develop a standard form contract  
26 for the sale, delivery and purchase of renewable energy



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

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

12 (9) Coal to Solar and Energy Storage Initiative  
13 Charge.

14 (A) By no later than July 1, 2022, each electric  
15 utility that served more than 300,000 retail customers  
16 in this State as of January 1, 2019 shall file a tariff  
17 with the Commission for the billing and collection of  
18 a Coal to Solar and Energy Storage Initiative Charge  
19 in accordance with subsection (i-5) of Section 16-108  
20 of the Public Utilities Act, with such tariff to be  
21 effective, following review and approval or  
22 modification by the Commission, beginning January 1,  
23 2023. The tariff shall provide for the calculation and  
24 setting of the electric utility's Coal to Solar and  
25 Energy Storage Initiative Charge to collect revenues  
26 estimated to be sufficient, in the aggregate, (i) to

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

20 (B) Each electric utility shall remit on a monthly  
21 basis to the State Treasurer, for deposit in the Coal  
22 to Solar and Energy Storage Initiative Fund provided  
23 for in this subsection (c-5), the electric utility's  
24 collections of the Coal to Solar and Energy Storage  
25 Initiative Charge in the amount estimated to be needed  
26 by the Department for grant payments pursuant to grant

1 contracts entered into by the Department pursuant to  
2 paragraph (10) of this subsection (c-5).

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

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

19 (B) The Coal to Solar and Energy Storage  
20 Initiative Fund shall not be subject to sweeps,  
21 administrative charges, or chargebacks, including, but  
22 not limited to, those authorized under Section 8h of  
23 the State Finance Act, that would in any way result in  
24 the transfer of those funds from the Coal to Solar and  
25 Energy Storage Initiative Fund to any other fund of  
26 this State or in having any such funds utilized for any

1           purpose other than the express purposes set forth in  
2           this paragraph (10).

3           (C)     The     Department     shall     utilize     up     to  
4           \$280,500,000 in the Coal to Solar and Energy Storage  
5           Initiative Fund for grants, assuming sufficient  
6           qualifying applicants, to support installation of  
7           energy storage facilities at the sites of up to 3  
8           qualifying electric generating facilities located in  
9           the Midcontinent Independent System Operator, Inc.,  
10          region in Illinois and the sites of up to 2 qualifying  
11          electric generating facilities located in the PJM  
12          Interconnection, LLC region in Illinois that meet the  
13          criteria set forth in this subparagraph (C). The  
14          criteria for receipt of a grant pursuant to this  
15          subparagraph (C) are as follows:

16                 (1) the electric generating facility at the  
17                 site has, or had prior to retirement, an electric  
18                 generating capacity of at least 150 megawatts;

19                 (2) the electric generating facility burns (or  
20                 burned prior to retirement) coal as its primary  
21                 source of fuel;

22                 (3) if the electric generating facility is  
23                 retired, it was retired subsequent to January 1,  
24                 2016;

25                 (4) the owner of the electric generating  
26                 facility has not been selected by the Agency

1           pursuant to this subsection (c-5) of this Section  
2           to enter into a contract to sell renewable energy  
3           credits to one or more electric utilities from a  
4           new renewable energy facility located or to be  
5           located at or adjacent to the site at which the  
6           electric generating facility is located;

7           (5) the electric generating facility located  
8           at the site was at one time owned, in whole or in  
9           part, by a public utility as defined in Section  
10          3-105 of the Public Utilities Act;

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

19          (7) the proposed energy storage facility at  
20          the site will have energy storage capacity of at  
21          least 37 megawatts;

22          (8) the owner commits to place the energy  
23          storage facility into commercial operation on  
24          either June 1, 2023, June 1, 2024, or June 1, 2025,  
25          with such date subject to adjustment as needed due  
26          to any delays in completing the grant contracting

1 process, in finalizing interconnection agreements  
2 and in installing interconnection facilities, and  
3 in obtaining necessary governmental permits and  
4 approvals;

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

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

25 (11) the owner commits that not less than the  
26 prevailing wage, as determined pursuant to the

1           Prevailing Wage Act, will be paid to the owner's  
2           employees engaged in construction activities  
3           associated with the new energy storage facility  
4           and to the employees of the owner's contractors  
5           engaged in construction activities associated with  
6           the new energy storage facility, and that, on or  
7           before the commercial operation date of the new  
8           energy storage facility, the owner shall file a  
9           report with the Department certifying that the  
10          requirements of this subparagraph (11) have been  
11          met; and

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

23           The Department shall accept applications for this  
24          grant program until March 31, 2022 and shall announce  
25          the award of grants no later than June 1, 2022. The  
26          Department shall make the grant payments to a



1 recipient in equal annual amounts for 10 years  
2 following the date the energy storage facility is  
3 placed into commercial operation. The annual grant  
4 payments to a qualifying energy storage facility shall  
5 be \$110,000 per megawatt of energy storage capacity,  
6 with total annual grant payments pursuant to this  
7 subparagraph (C) for qualifying energy storage  
8 facilities not to exceed \$28,050,000 in any year.

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

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

1 warrants.

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

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

23 (B) For purposes of this paragraph (11), diversity  
24 composition shall be based on the percentage, which  
25 shall be a minimum of 25%, of eligible expenditures  
26 for contract awards for materials and services (which

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

22 (C) The plan shall provide for, but not be limited  
23 to: (i) internal initiatives, including multi-tier  
24 initiatives, by the applicant or owner, or by its  
25 engineering, procurement and construction contractor  
26 if one is used for the project, which for purposes of

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

26                 (D) The applicant or owner may submit a revised or

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

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

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

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

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

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

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

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

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



1           designee demonstrating compliance.

2           (E) The Agency shall pursue efficiencies achieved  
3           by combining with other approved vendor or designee  
4           reporting.

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

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

1           accountability requirements for approved vendors and their  
2           designees under this subsection (c-10). In developing  
3           these requirements, the Agency shall also consider whether  
4           equity goals can be further advanced through additional  
5           measures.

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

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

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

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

1 (D) A process for certifying equity eligible  
2 contractors and equity eligible persons. The  
3 certification process shall coordinate with the Energy  
4 Workforce Equity Database set forth in subsection  
5 (c-25).

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

1 extent, the Agency shall consider the degree to which  
2 similarly situated applicants have been able to meet  
3 these minimum equity commitments. For repeated waiver  
4 requests for specific lack of eligible persons or  
5 eligible contractors available, the Agency shall make  
6 recommendations to target recruitment to add such  
7 eligible persons or eligible contractors to the  
8 database.

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

17 (6) The Agency shall keep confidential all information  
18 and communication that provides private or personal  
19 information.

20 (7) Modifications to the equity accountability system.  
21 As part of the update of the long-term renewable resources  
22 procurement plan to be initiated in 2023, or sooner if the  
23 Agency deems necessary, the Agency shall determine the  
24 extent to which the equity accountability system described  
25 in this subsection (c-10) has advanced the goals of this  
26 amendatory Act of the 102nd General Assembly, including

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

22 (c-15) Racial discrimination elimination powers and  
23 process.

24 (1) Purpose. It is the purpose of this subsection to  
25 empower the Agency and other State actors to remedy racial  
26 discrimination in Illinois' clean energy economy as

1 effectively and expediently as possible, including through  
2 the use of race-conscious remedies, such as race-conscious  
3 contracting and hiring goals, as consistent with State and  
4 federal law.

5 (2) Racial disparity and discrimination review  
6 process.

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

18 (B) As soon as is practicable thereafter, the  
19 Agency, in consultation with the Department of  
20 Commerce and Economic Opportunity, Department of  
21 Labor, and other agencies that may be relevant, shall  
22 commission and publish a disparity and availability  
23 study that measures the presence and impact of  
24 discrimination on minority businesses and workers in  
25 Illinois' clean energy economy. The Agency may hire  
26 consultants and experts to conduct the disparity and

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

19          (c-20) Program data collection.

20           (1) Purpose. Data collection, data analysis, and  
21           reporting are critical to ensure that the benefits of the  
22           clean energy economy provided to Illinois residents and  
23           businesses are equitably distributed across the State. The  
24           Agency shall collect data from program applicants in order  
25           to track and improve equitable distribution of benefits  
26           across Illinois communities for all procurements the

1 Agency conducts. The Agency shall use this data to, among  
2 other things, measure any potential impact of racial  
3 discrimination on the distribution of benefits and provide  
4 information necessary to correct any discrimination  
5 through methods consistent with State and federal law.

6 (2) Agency collection of program data. The Agency  
7 shall collect demographic and geographic data for each  
8 entity awarded contracts under any Agency-administered  
9 program.

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

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

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

23 (C) any other information the Agency determines is  
24 necessary for the purpose of achieving the purpose of  
25 this subsection.

26 (4) Publication of collected information. The Agency



1 shall publish, at least annually, information on the  
2 demographics of program participants on an aggregate  
3 basis.

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

8 (c-25) Energy Workforce Equity Database.

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

19 (A) publicly accessible;

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

21 (C) organized by company specialty or field;

22 (D) region-specific; and

23 (E) populated with information including, but not  
24 limited to, contacts for suppliers, vendors, or  
25 subcontractors who are minority and women-owned  
26 business enterprise certified or who participate or

1           have participated in any of the programs described in  
2           this Act.

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

6                   (A) a map of environmental justice and equity  
7                   investment eligible communities;

8                   (B) job postings and recruiting opportunities;

9                   (C) a means by which recruiting clean energy  
10                  companies can find and interact with current or former  
11                  participants of clean energy workforce training  
12                  programs;

13                  (D) information on workforce training service  
14                  providers and training opportunities available to  
15                  prospective workers;

16                  (E) renewable energy company diversity reporting;

17                  (F) a list of equity eligible contractors with  
18                  their contact information, types of work performed,  
19                  and locations worked in;

20                  (G) reporting on outcomes of the programs  
21                  described in the workforce programs of the Energy  
22                  Transition Act, including information such as, but not  
23                  limited to, retention rate, graduation rate, and  
24                  placement rates of trainees; and

25                  (H) information about the Jobs and Environmental  
26                  Justice Grant Program, the Clean Energy Jobs and

1 Justice Fund, and other sources of capital.

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

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

26 (d) Clean coal portfolio standard.

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

25           A utility party to a sourcing agreement shall  
26 immediately retire any emission credits that it receives

1 in connection with the electricity covered by such  
2 agreement.

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

9 A utility shall be deemed to have complied with the  
10 clean coal portfolio standard specified in this subsection  
11 (d) if the utility enters into a sourcing agreement as  
12 required by this subsection (d).

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

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

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

12          (B) in 2011, the greater of an additional 0.5% of  
13          the amount paid per kilowatthour by those customers  
14          during the year ending May 31, 2010 or 1% of the amount  
15          paid per kilowatthour by those customers during the  
16          year ending May 31, 2009;

17          (C) in 2012, the greater of an additional 0.5% of  
18          the amount paid per kilowatthour by those customers  
19          during the year ending May 31, 2011 or 1.5% of the  
20          amount paid per kilowatthour by those customers during  
21          the year ending May 31, 2009;

22          (D) in 2013, the greater of an additional 0.5% of  
23          the amount paid per kilowatthour by those customers  
24          during the year ending May 31, 2012 or 2% of the amount  
25          paid per kilowatthour by those customers during the  
26          year ending May 31, 2009; and

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

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

22          (3) Initial clean coal facility. In order to promote  
23          development of clean coal facilities in Illinois, each  
24          electric utility subject to this Section shall execute a  
25          sourcing agreement to source electricity from a proposed  
26          clean coal facility in Illinois (the "initial clean coal

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

18 (A) a formula contractual price (the "contract  
19 price") approved pursuant to paragraph (4) of this  
20 subsection (d), which shall:

21 (i) be determined using a cost of service  
22 methodology employing either a level or deferred  
23 capital recovery component, based on a capital  
24 structure consisting of 45% equity and 55% debt,  
25 and a return on equity as may be approved by the  
26 Federal Energy Regulatory Commission, which in any



1 case may not exceed the lower of 11.5% or the rate  
2 of return approved by the General Assembly  
3 pursuant to paragraph (4) of this subsection (d);  
4 and

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

21 (B) power purchase provisions, which shall:

22 (i) provide that the utility party to such  
23 sourcing agreement shall pay the contract price  
24 for electricity delivered under such sourcing  
25 agreement;

26 (ii) require delivery of electricity to the

1 regional transmission organization market of the  
2 utility that is party to such sourcing agreement;

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

24 (iv) be considered pre-existing contracts in  
25 such utility's procurement plans for eligible  
26 retail customers;

1 (C) contract for differences provisions, which  
2 shall:

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

25 (ii) provide that the utility's payment  
26 obligation in respect of the quantity of

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

17 (iii) not require the utility to take physical  
18 delivery of the electricity produced by the  
19 facility;

20 (D) general provisions, which shall:

21 (i) specify a term of no more than 30 years,  
22 commencing on the commercial operation date of the  
23 facility;

24 (ii) provide that utilities shall maintain  
25 adequate records documenting purchases under the  
26 sourcing agreements entered into to comply with

1           this subsection (d) and shall file an accounting  
2           with the load forecast that must be filed with the  
3           Agency by July 15 of each year, in accordance with  
4           subsection (d) of Section 16-111.5 of the Public  
5           Utilities Act;

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

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

19          (v) require the owner of the initial clean  
20          coal facility to provide documentation to the  
21          Commission each year, starting in the facility's  
22          first year of commercial operation, accurately  
23          reporting the quantity of carbon emissions from  
24          the facility that have been captured and  
25          sequestered and report any quantities of carbon  
26          released from the site or sites at which carbon

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

1 year, provided the requisite offsets are  
2 purchased. However, the Attorney General, on  
3 behalf of the People of the State of Illinois, may  
4 specifically enforce the facility's sequestration  
5 requirement and the other terms of this contract  
6 provision. Compliance with the sequestration  
7 requirements and offset purchase requirements  
8 specified in paragraph (3) of this subsection (d)  
9 shall be reviewed annually by an independent  
10 expert retained by the owner of the initial clean  
11 coal facility, with the advance written approval  
12 of the Attorney General. The Commission may, in  
13 the course of the review specified in item (vii),  
14 reduce the allowable return on equity for the  
15 facility if the facility willfully fails to comply  
16 with the carbon capture and sequestration  
17 requirements set forth in this item (v);

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

23 (vii) require Commission review: (1) to  
24 determine the justness, reasonableness, and  
25 prudence of the inputs to the formula referenced  
26 in subparagraphs (A)(i) through (A)(iii) of

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

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

19 (ix) limit the utility's or alternative retail  
20 electric supplier's obligation to incur any  
21 liability until such time as the facility is in  
22 commercial operation and generating power and  
23 energy and such power and energy is being  
24 delivered to the facility busbar;

25 (x) provide that the owner or owners of the  
26 initial clean coal facility, which is the



1           counterparty to such sourcing agreement, shall  
2           have the right from time to time to elect whether  
3           the obligations of the utility party thereto shall  
4           be governed by the power purchase provisions or  
5           the contract for differences provisions;

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

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

19          (xiii) conform with customary lender  
20          requirements in power purchase agreements used as  
21          the basis for financing non-utility generators.

22          (4) Effective date of sourcing agreements with the  
23          initial clean coal facility. Any proposed sourcing  
24          agreement with the initial clean coal facility shall not  
25          become effective unless the following reports are prepared  
26          and submitted and authorizations and approvals obtained:

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

14           (ii) Commission report. Within 6 months following  
15 receipt of the facility cost report, the Commission,  
16 in consultation with the Agency, shall submit a report  
17 to the General Assembly setting forth its analysis of  
18 the facility cost report. Such report shall include,  
19 but not be limited to, a comparison of the costs  
20 associated with electricity generated by the initial  
21 clean coal facility to the costs associated with  
22 electricity generated by other types of generation  
23 facilities, an analysis of the rate impacts on  
24 residential and small business customers over the life  
25 of the sourcing agreements, and an analysis of the  
26 likelihood that the initial clean coal facility will

1 commence commercial operation by and be delivering  
2 power to the facility's busbar by 2016. To assist in  
3 the preparation of its report, the Commission, in  
4 consultation with the Agency, may hire one or more  
5 experts or consultants, the costs of which shall be  
6 paid for by the owner of the initial clean coal  
7 facility. The Commission and Agency may begin the  
8 process of selecting such experts or consultants prior  
9 to receipt of the facility cost report.

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

21 (iv) Commission review. If the General Assembly  
22 enacts authorizing legislation pursuant to  
23 subparagraph (iii) approving a sourcing agreement, the  
24 Commission shall, within 90 days of such enactment,  
25 complete a review of such sourcing agreement. During  
26 such time period, the Commission shall implement any

1 directive of the General Assembly, resolve any  
2 disputes between the parties to the sourcing agreement  
3 concerning the terms of such agreement, approve the  
4 form of such agreement, and issue an order finding  
5 that the sourcing agreement is prudent and reasonable.  
6 The facility cost report shall be prepared as follows:

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

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

22 (ii) an estimate of the capital cost of the  
23 balance of the plant, including any capital costs  
24 associated with sequestration of carbon dioxide  
25 emissions and all interconnects and interfaces  
26 required to operate the facility, such as

1 transmission of electricity, construction or  
2 backfeed power supply, pipelines to transport  
3 substitute natural gas or carbon dioxide, potable  
4 water supply, natural gas supply, water supply,  
5 water discharge, landfill, access roads, and coal  
6 delivery.

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

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

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

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

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

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

25 (E) Amounts paid to third parties unrelated to the  
26 owner or owners of the initial clean coal facility to

1           prepare the core plant construction cost quote,  
2           including the front end engineering and design study,  
3           and the operating and maintenance cost quote will be  
4           reimbursed through Coal Development Bonds.

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

1 utility sourcing agreements that do not exceed cost-based  
2 benchmarks developed by the procurement administrator, in  
3 consultation with the Commission staff, Agency staff and  
4 the procurement monitor, subject to Commission review and  
5 approval. The Commission shall have authority to inspect  
6 all books and records associated with these clean coal  
7 facilities during the term of any such contract.

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

14 (d-5) Zero emission standard.

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



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

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

22 The procurement process shall be subject to the  
23 following provisions:

24 (A) Those zero emission facilities that intend to  
25 participate in the procurement shall submit to the  
26 Agency the following eligibility information for each

1 zero emission facility on or before the date  
2 established by the Agency:

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

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

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

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

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

18          (B) The price for each zero emission credit  
19          procured under this subsection (d-5) for each delivery  
20          year shall be in an amount that equals the Social Cost  
21          of Carbon, expressed on a price per megawatthour  
22          basis. However, to ensure that the procurement remains  
23          affordable to retail customers in this State if  
24          electricity prices increase, the price in an  
25          applicable delivery year shall be reduced below the  
26          Social Cost of Carbon by the amount ("Price

1 Adjustment") by which the market price index for the  
2 applicable delivery year exceeds the baseline market  
3 price index for the consecutive 12-month period ending  
4 May 31, 2016. If the Price Adjustment is greater than  
5 or equal to the Social Cost of Carbon in an applicable  
6 delivery year, then no payments shall be due in that  
7 delivery year. The components of this calculation are  
8 defined as follows:

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

21 (ii) Baseline market price index: The baseline  
22 market price index for the consecutive 12-month  
23 period ending May 31, 2016 is \$31.40 per  
24 megawatthour, which is based on the sum of (aa)  
25 the average day-ahead energy price across all  
26 hours of such 12-month period at the PJM

1 Interconnection LLC Northern Illinois Hub, (bb)  
2 50% multiplied by the Base Residual Auction, or  
3 its successor, capacity price for the rest of the  
4 RTO zone group determined by PJM Interconnection  
5 LLC, divided by 24 hours per day, and (cc) 50%  
6 multiplied by the Planning Resource Auction, or  
7 its successor, capacity price for Zone 4  
8 determined by the Midcontinent Independent System  
9 Operator, Inc., divided by 24 hours per day.

10 (iii) Market price index: The market price  
11 index for a delivery year shall be the sum of  
12 projected energy prices and projected capacity  
13 prices determined as follows:

14 (aa) Projected energy prices: the  
15 projected energy prices for the applicable  
16 delivery year shall be calculated once for the  
17 year using the forward market price for the  
18 PJM Interconnection, LLC Northern Illinois  
19 Hub. The forward market price shall be  
20 calculated as follows: the energy forward  
21 prices for each month of the applicable  
22 delivery year averaged for each trade date  
23 during the calendar year immediately preceding  
24 that delivery year to produce a single energy  
25 forward price for the delivery year. The  
26 forward market price calculation shall use

1 data published by the Intercontinental  
2 Exchange, or its successor.

3 (bb) Projected capacity prices:

4 (I) For the delivery years commencing  
5 June 1, 2017, June 1, 2018, and June 1,  
6 2019, the projected capacity price shall  
7 be equal to the sum of (1) 50% multiplied  
8 by the Base Residual Auction, or its  
9 successor, price for the rest of the RTO  
10 zone group as determined by PJM  
11 Interconnection LLC, divided by 24 hours  
12 per day and, (2) 50% multiplied by the  
13 resource auction price determined in the  
14 resource auction administered by the  
15 Midcontinent Independent System Operator,  
16 Inc., in which the largest percentage of  
17 load cleared for Local Resource Zone 4,  
18 divided by 24 hours per day, and where  
19 such price is determined by the  
20 Midcontinent Independent System Operator,  
21 Inc.

22 (II) For the delivery year commencing  
23 June 1, 2020, and each year thereafter,  
24 the projected capacity price shall be  
25 equal to the sum of (1) 50% multiplied by  
26 the Base Residual Auction, or its

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

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

14           "Rest of the RTO" and "ComEd Zone" shall have  
15           the meaning ascribed to them by PJM  
16           Interconnection, LLC.

17           "RTO" means regional transmission  
18           organization.

19           (C) No later than 45 days after June 1, 2017 (the  
20           effective date of Public Act 99-906), the Agency shall  
21           publish its proposed zero emission standard  
22           procurement plan. The plan shall be consistent with  
23           the provisions of this paragraph (1) and shall provide  
24           that winning bids shall be selected based on public  
25           interest criteria that include, but are not limited  
26           to, minimizing carbon dioxide emissions that result

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

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

24 Upon publishing of the zero emission standard  
25 procurement plan, copies of the plan shall be posted  
26 and made publicly available on the Agency's website.



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

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

20 (C-5) As part of the Commission's review and  
21 acceptance or rejection of the procurement results,  
22 the Commission shall, in its public notice of  
23 successful bidders:

24 (i) identify how the winning bids satisfy the  
25 public interest criteria described in subparagraph  
26 (C) of this paragraph (1) of minimizing carbon

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

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

15          (iii) quantify the environmental benefit of  
16          preserving the resources identified in item (ii)  
17          of this subparagraph (C-5), including the  
18          following:

19               (aa) the value of avoided greenhouse gas  
20               emissions measured as the product of the zero  
21               emission facilities' output over the contract  
22               term multiplied by the U.S. Environmental  
23               Protection Agency eGrid subregion carbon  
24               dioxide emission rate and the U.S. Interagency  
25               Working Group on Social Cost of Carbon's price  
26               in the August 2016 Technical Update using a 3%

1 discount rate, adjusted for inflation for each  
2 delivery year; and

3 (bb) the costs of replacement with other  
4 zero carbon dioxide resources, including wind  
5 and photovoltaic, based upon the simple  
6 average of the following:

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

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

26 Each utility shall enter into binding contractual

1 arrangements with the winning suppliers.

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

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

1 every May 25 thereafter.

2 (E) Notwithstanding the requirements of this  
3 subsection (d-5), the contracts executed under this  
4 subsection (d-5) shall provide that the zero emission  
5 facility may, as applicable, suspend or terminate  
6 performance under the contracts in the following  
7 instances:

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

1 to, delivery of zero emission credits, and no  
2 payment shall be due to the zero emission facility  
3 during the duration of the event.

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

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

24 (iv) A zero emission facility shall be  
25 permitted to terminate the contract in the event  
26 the Nuclear Regulatory Commission terminates the

1 resource's license.

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

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

18 Notwithstanding the requirements of this subsection  
19 (d-5), the contracts executed under this subsection (d-5)  
20 shall provide that the total of zero emission credits  
21 procured under a procurement plan shall be subject to the  
22 limitations of this paragraph (2). For each delivery year,  
23 the contractual volume receiving payments in such year  
24 shall be reduced for all retail customers based on the  
25 amount necessary to limit the net increase that delivery  
26 year to the costs of those credits included in the amounts

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



1 recovered by the electric utility as provided in this  
2 Section.

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

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

1 utility no later than 120 days after the Agency's  
2 determination, which the utility shall reflect as a credit  
3 on its retail customer bills as soon as practicable;  
4 however, the credit remitted to the utility shall not  
5 exceed the total amount of payments received by the  
6 facility under its contract.

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

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

18 (B) The average of the market price indices, as  
19 defined in subparagraph (B) of paragraph (1) of this  
20 subsection (d-5), during the term of the contract,  
21 minus the baseline market price index, as defined in  
22 subparagraph (B) of paragraph (1) of this subsection  
23 (d-5).

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

26 (4) Cost-effective zero emission credits procured from

1 zero emission facilities shall satisfy the applicable  
2 definitions set forth in Section 1-10 of this Act.

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

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

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

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

20 (1) The General Assembly finds:

21 (A) The health, welfare, and prosperity of all  
22 Illinois citizens require that the State of Illinois act  
23 to avoid and not increase carbon emissions from electric  
24 generation sources while continuing to ensure affordable,  
25 stable, and reliable electricity to all citizens.

26 (B) Absent immediate action by the State to preserve

1 existing carbon-free energy resources, those resources may  
2 retire, and the electric generation needs of Illinois'  
3 retail customers may be met instead by facilities that  
4 emit significant amounts of carbon pollution and other  
5 harmful air pollutants at a high social and economic cost  
6 until Illinois is able to develop other forms of clean  
7 energy.

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

15 (D) The clean energy attributes of nuclear generation  
16 facilities support the State in its efforts to achieve  
17 100% clean energy.

18 (E) The State currently invests in various forms of  
19 clean energy, including, but not limited to, renewable  
20 energy, energy efficiency, and low-emission vehicles,  
21 among others.

22 (F) The Environmental Protection Agency commissioned  
23 an independent audit which provided a detailed assessment  
24 of the financial condition of the Illinois nuclear fleet  
25 to evaluate its financial viability and whether the  
26 environmental benefits of such resources were at risk. The

1 report identified the risk of losing the environmental  
2 benefits of several specific nuclear units. The report  
3 also identified that the LaSalle County Generating Station  
4 will continue to operate through 2026 and therefore is not  
5 eligible to participate in the carbon mitigation credit  
6 program.

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

10 (H) The procurement of carbon mitigation credits  
11 representing the environmental benefits of carbon-free  
12 generation will further the State's efforts at achieving  
13 100% clean energy and decarbonizing the electricity sector  
14 in a safe, reliable, and affordable manner. Further, the  
15 procurement of carbon emission credits will enhance the  
16 health and welfare of Illinois residents through decreased  
17 reliance on more highly polluting generation.

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

24 (2) As used in this subsection:

25 "Baseline costs" means costs used to establish a customer  
26 protection cap that have been evaluated through an independent

1 audit of a carbon-free energy resource conducted by the  
2 Environmental Protection Agency that evaluated projected  
3 annual costs for operation and maintenance expenses; fully  
4 allocated overhead costs, which shall be allocated using the  
5 methodology developed by the Institute for Nuclear Power  
6 Operations; fuel expenditures; nonfuel capital expenditures;  
7 spent fuel expenditures; a return on working capital; the cost  
8 of operational and market risks that could be avoided by  
9 ceasing operation; and any other costs necessary for continued  
10 operations, provided that "necessary" means, for purposes of  
11 this definition, that the costs could reasonably be avoided  
12 only by ceasing operations of the carbon-free energy resource.

13 "Carbon mitigation credit" means a tradable credit that  
14 represents the carbon emission reduction attributes of one  
15 megawatt-hour of energy produced from a carbon-free energy  
16 resource.

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

20 (3) Procurement.

21 (A) Beginning with the delivery year commencing on  
22 June 1, 2022, the Agency shall, for electric utilities  
23 serving at least 3,000,000 retail customers in the State,  
24 seek to procure contracts for no more than approximately  
25 54,500,000 cost-effective carbon mitigation credits from  
26 carbon-free energy resources because such credits are

1 necessary to support current levels of carbon-free energy  
2 generation and ensure the State meets its carbon dioxide  
3 emissions reduction goals. The Agency shall not make a  
4 partial award of a contract for carbon mitigation credits  
5 covering a fractional amount of a carbon-free energy  
6 resource's projected output.

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

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

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

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

26 (iv) financial need and the risk of loss of the

1 environmental benefits of such resource, which shall  
2 include the following information:

3 (I) the carbon-free energy resource's cost  
4 projections, expressed on a per megawatt-hour  
5 basis, over the next 5 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; nonfuel 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 subitem (I), that the costs could  
17 reasonably be avoided only by ceasing operations  
18 of the carbon-free energy resource; and

19 (II) the carbon-free energy resource's revenue  
20 projections, including energy, capacity, ancillary  
21 services, any other direct State support, known or  
22 anticipated federal attribute credits, known or  
23 anticipated tax credits, and any other direct  
24 federal support.

25 The information described in this subparagraph (B) may  
26 be submitted on a confidential basis and shall be treated



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

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

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

24 (ii) Contracts for carbon mitigation credits shall  
25 commence with the delivery year beginning on June 1,  
26 2022 and shall be for a term of 5 delivery years

1 concluding on May 31, 2027.

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

5 (I) one of the following energy price indices,  
6 selected by the bidder at the time of the bid for  
7 the term of the contract:

8 (aa) the weighted-average hourly day-ahead  
9 price for the applicable delivery year at the  
10 busbar of all resources procured pursuant to  
11 this subsection (d-10), weighted by actual  
12 production from the resources; or

13 (bb) the projected energy price for the  
14 PJM Interconnection, LLC Northern Illinois Hub  
15 for the applicable delivery year determined  
16 according to subitem (aa) of item (iii) of  
17 subparagraph (B) of paragraph (1) of  
18 subsection (d-5).

19 (II) the Base Residual Auction Capacity Price  
20 for the ComEd zone as determined by PJM  
21 Interconnection, LLC, divided by 24 hours per day,  
22 for the applicable delivery year for the first 3  
23 delivery years, and then any subsequent delivery  
24 years unless the PJM Interconnection, LLC applies  
25 the Minimum Offer Price Rule to participating  
26 carbon-free energy resources because they supply

1 carbon mitigation credits pursuant to this Section  
2 at which time, upon notice by the carbon-free  
3 energy resource to the Commission and subject to  
4 the Commission's confirmation, the value under  
5 this subitem shall be zero, as further described  
6 in the carbon mitigation credit procurement plan;  
7 and

8 (III) any value of monetized federal tax  
9 credits, direct payments, or similar subsidy  
10 provided to the carbon-free energy resource from  
11 any unit of government that is not already  
12 reflected in energy prices.

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

20 To protect retail customers from retail rate  
21 impacts that may arise upon the initiation of carbon  
22 policy changes, if the price-per-megawatt-hour  
23 calculation performed under item (iii) of this  
24 subparagraph (C) for a given delivery year results in  
25 a net negative value, then the supplier counterparty  
26 to the contract shall multiply such net value by the

1 applicable contract quantity and remit such amount to  
2 the electric utility counterparty. The electric  
3 utility shall reflect such amounts remitted by  
4 suppliers as a credit on its retail customer bills as  
5 soon as practicable.

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

13 The baseline costs for the applicable year shall  
14 be the following:

15 (I) For the delivery year beginning June 1,  
16 2022, the baseline costs shall be an amount equal  
17 to \$30.30 per megawatt-hour.

18 (II) For the delivery year beginning June 1,  
19 2023, the baseline costs shall be an amount equal  
20 to \$32.50 per megawatt-hour.

21 (III) For the delivery year beginning June 1,  
22 2024, the baseline costs shall be an amount equal  
23 to \$33.43 per megawatt-hour.

24 (IV) For the delivery year beginning June 1,  
25 2025, the baseline costs shall be an amount equal  
26 to \$33.50 per megawatt-hour.

1                   (V) For the delivery year beginning June 1,  
2                   2026, the baseline costs shall be an amount equal  
3                   to \$34.50 per megawatt-hour.

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

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

1           (D) No later than 7 days after the effective date of  
2 this amendatory Act of the 102nd General Assembly, the  
3 Agency shall publish its proposed carbon mitigation credit  
4 procurement plan. The Plan shall provide that winning bids  
5 shall be selected by taking into consideration which  
6 resources best match public interest criteria that  
7 include, but are not limited to, minimizing carbon dioxide  
8 emissions that result from electricity consumed in  
9 Illinois and minimizing sulfur dioxide, nitrogen oxide,  
10 and particulate matter emissions that adversely affect the  
11 citizens of this State. The selection of winning bids  
12 shall also take into account the incremental environmental  
13 benefits resulting from the procurement or procurements,  
14 such as any existing environmental benefits that are  
15 preserved by a procurement held under this subsection  
16 (d-10) and would cease to exist if the procurement were  
17 not held, including the preservation of carbon-free energy  
18 resources. For those bidders having the same public  
19 interest criteria score, the relative ranking of such  
20 bidders shall be determined by price. The Plan shall  
21 describe in detail how each public interest factor shall  
22 be considered and weighted in the bid selection process to  
23 ensure that the public interest criteria are applied to  
24 the procurement. The Plan shall, to the extent practical  
25 and permissible by federal law, ensure that successful  
26 bidders make commercially reasonable efforts to apply for

1 federal tax credits, direct payments, or similar subsidy  
2 programs that support carbon-free generation and for which  
3 the successful bidder is eligible. Upon publishing of the  
4 carbon mitigation credit procurement plan, copies of the  
5 plan shall be posted and made publicly available on the  
6 Agency's website. All interested parties shall have 7 days  
7 following the date of posting to provide comment to the  
8 Agency on the plan. All comments shall be posted to the  
9 Agency's website. Following the end of the comment period,  
10 but no more than 19 days later than the effective date of  
11 this amendatory Act of the 102nd General Assembly, the  
12 Agency shall revise the plan as necessary based on the  
13 comments received and file its carbon mitigation credit  
14 procurement plan with the Commission.

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

1 notice of successful bidders:

2 (i) identify how the selected carbon-free energy  
3 resources satisfy the public interest criteria  
4 described in this paragraph (3) of minimizing carbon  
5 dioxide emissions that result from electricity  
6 consumed in Illinois and minimizing sulfur dioxide,  
7 nitrogen oxide, and particulate matter emissions that  
8 adversely affect the citizens of this State;

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

18 (iii) quantify the environmental benefit of  
19 preserving the carbon-free energy resources procured  
20 pursuant to this subsection (d-10), including the  
21 following:

22 (I) an assessment value of avoided greenhouse  
23 gas emissions measured as the product of the  
24 carbon-free energy resources' output over the  
25 contract term, using generally accepted  
26 methodologies for the valuation of avoided



1 emissions; and

2 (II) an assessment of costs of replacement  
3 with other carbon-free energy resources and  
4 renewable energy resources, including wind and  
5 photovoltaic generation, based upon an assessment  
6 of the prices paid for renewable energy credits  
7 through programs and procurements conducted  
8 pursuant to subsection (c) of Section 1-75 of this  
9 Act, and the additional storage necessary to  
10 produce the same or similar capability of matching  
11 customer usage patterns.

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

1           timely fashion.

2           (F-1) Costs incurred by the electric utility pursuant  
3           to a contract authorized by this subsection (d-10) shall  
4           be deemed prudently incurred and reasonable in amount, and  
5           the electric utility shall be entitled to full cost  
6           recovery pursuant to a tariff or tariffs filed with the  
7           Commission.

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

11          (H) If a carbon-free energy resource is sold to  
12          another owner, the rights, obligations, and commitments  
13          under this subsection (d-10) shall continue to the  
14          subsequent owner.

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

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

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

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

1 (h) The Agency shall assess fees to each bidder to recover  
2 the costs incurred in connection with a competitive  
3 procurement process.

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

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

18 (20 ILCS 3855/1-129 new)

19 Sec. 1-129. Policy study.

20 (a) The General Assembly finds that:

21 (1) in 2021, Illinois became the first state in the  
22 Midwest to mandate a clean energy future when it enacted  
23 the Climate and Equitable Jobs Act (Public Act 102-662);

24 (2) through the Climate and Equitable Jobs Act,  
25 Illinois established a plan to completely decarbonize its

1 energy sector by 2050 in an equitable manner that invests  
2 in the State's workforce;

3 (3) technology in the energy sector continues to  
4 advance creating cleaner and more efficient options to  
5 help the State attain the target of 50% renewable energy  
6 by 2040; and

7 (4) while numerous legislative proposals purport to  
8 help the State on its path to equitably attain 100% clean  
9 energy, it is important to have a neutral party with  
10 relevant expertise evaluate each proposal to ensure it is  
11 consistent with the State's goals and maximizes benefits  
12 to Illinois residents.

13 (b) The General Assembly intends:

14 (1) to prioritize the public interest over the profit  
15 motives of utilities and private developers; and

16 (2) to invest in projects that reduce harmful  
17 emissions and contribute to the clean economy.

18 (c) The Agency shall commission and publish a policy study  
19 to evaluate the potential impacts of the proposals described  
20 in subsection (g). The potential impacts may include, but are  
21 not limited to, support for Illinois' decarbonization goals,  
22 the environment, grid reliability, carbon and other pollutant  
23 emissions, resource adequacy, long-term and short-term  
24 electric rates, environmental justice communities, jobs, and  
25 the economy. Where applicable, the study shall address the  
26 impact of a proposal with respect to reports by the

1 Midcontinent Independent System Operator, PJM, and North  
2 American Electric Reliability Corporation staff that Illinois  
3 has begun to experience resource adequacy issues.

4 (d) The Agency shall retain the services of technical and  
5 policy experts with energy market and other relevant fields of  
6 expertise. The technical and policy experts may include the  
7 existing planning and procurement consultant and applicable  
8 subcontractors and the procurement administrator and  
9 applicable subcontractors. The Illinois Commerce Commission,  
10 the Illinois Environmental Protection Agency, and the  
11 Department of Commerce and Economic Opportunity shall provide  
12 support to and consult with the Agency. The Agency may consult  
13 with other State agencies, commissions, or task forces as  
14 needed. The Agency may consult with and seek assistance from  
15 the Regional Transmission Organizations PJM and MISO.

16 (e) The Agency may solicit information, including  
17 confidential or proprietary information, from entities likely  
18 to be impacted by the proposals described in subsection (g)  
19 for purposes of this study. Any information designated as  
20 confidential or proprietary information by the entity  
21 providing the information shall be kept confidential by the  
22 Agency, its consultants, and its contractors and is not  
23 subject to disclosure under the Freedom of Information Act.

24 (f) The Agency shall publish a final policy study no later  
25 than March 1, 2024 and suitable copies shall be delivered to  
26 the Governor and members of the General Assembly. Prior to

1 publishing the final policy study, the Agency shall publish a  
2 preliminary draft of the policy study and provide for a 20-day  
3 open public comment period. The Agency shall review public  
4 comments and publish a final policy study no later than 20 days  
5 after the public comment period ends. The policy study shall  
6 include policy recommendations to the General Assembly.

7 (g) The policy study shall evaluate the following  
8 proposals and may consider or suggest additional or  
9 alternative items:

10 (1) House Bill 2132 of the 103rd General Assembly as  
11 it passed out of the House on March 24, 2023 or a similar  
12 pilot program to establish one new utility-scale offshore  
13 wind project capable of producing at least 700,000  
14 megawatt hours annually for at least 20 years in Lake  
15 Michigan that includes an equity and inclusion plan to  
16 create job opportunities for underrepresented populations  
17 in addition to equity investment eligible communities and  
18 a fully executed project labor agreement. The pilot  
19 program may result in an increase in the amounts paid by  
20 eligible retail customers in connection with electric  
21 service that shall not exceed 0.25% of the amount paid per  
22 kilowatt hour by those customers during the year ending  
23 May 31, 2009.

24 (2) Senate Bill 1587 and amendments to Senate Bill  
25 1587 of the 103rd General Assembly filed prior to May 31,  
26 2023 or a similar proposal for the deployment of energy

1 storage systems supported by the State through the  
2 development of energy storage credit targets for the  
3 Agency to procure on behalf of Illinois electric utilities  
4 from privately owned, large scale energy storage providers  
5 using energy storage contracts of at least 15 year  
6 durations based on a competitive energy storage  
7 procurement plan developed by the Agency designed to  
8 enhance overall grid reliability, flexibility and  
9 efficiency, and to lower electricity prices. The plan must  
10 require participants to comply with the equity  
11 accountability system requirements in subsection (c-10) of  
12 Section 1-75 and to submit proof of project labor  
13 agreements. For purposes of this policy study, it should  
14 be assumed that the costs associated with procuring energy  
15 storage credits shall be recovered through tariffed  
16 charges assessed across all retail customers in a uniform  
17 cents per kilowatt hour charge. In addition to large scale  
18 energy storage, the proposal shall also include the  
19 creation of distributed level energy storage programs  
20 through utility tariffs as approved by the Illinois  
21 Commerce Commission. The programs shall include a  
22 residential and a commercial storage program that would  
23 allow customer-sited batteries to provide grid benefits  
24 and cost-savings to ratepayers. The proposal shall also  
25 include a community solar energy storage program intended  
26 to serve as a peak reduction program by utilizing

1 community solar paired storage projects deployed daily in  
2 summer months during peak hours. The installation of the  
3 energy storage systems associated with these distributed  
4 renewable systems must comply with the prevailing wage  
5 requirements described in subparagraph (Q) of paragraph  
6 (1) of subsection (c) of Section 1-75. The policy study  
7 shall include a review of the ability of coal-fueled  
8 generating plant sites located in Illinois that have been  
9 closed since 2016 or are scheduled to be closed by 2030 to  
10 support the installation of energy storage systems and  
11 potential associated interconnection costs. This review  
12 shall include: (i) whether those sites are already in a  
13 regional transmission organization interconnection queue,  
14 including MISO's replacement power interconnection queue,  
15 or would be submitted to the replacement power  
16 interconnection queue no later than September 1, 2023,  
17 and, if a site is in a queue, the site's position in the  
18 queue; and (ii) how soon those sites could support  
19 development and installation of energy storage systems and  
20 any barriers to that development. This review shall also  
21 include consultation with electric generation facility  
22 owners or operators and renewable developers that own or  
23 are in the process of developing energy storage systems in  
24 Illinois or that have experience developing energy storage  
25 systems in other States.

26 (3) A policy establishing high voltage direct current



1 renewable energy credits that requires the Agency to  
2 procure contracts with at least 25 years but no more than  
3 40 years duration for the delivery of renewable energy  
4 credits on behalf of electric utilities in Illinois with  
5 at least 300,000 customers from a high voltage direct  
6 current transmission facility with more than 100 miles of  
7 underground transmission lines in this State capable of  
8 transmitting electricity at or above 525 kilovolts and  
9 delivering power in the PJM market. High voltage direct  
10 current renewable energy credits procured by the Agency  
11 pursuant to this policy would not count toward the  
12 renewable energy credit purchase targets in subsection (c)  
13 of Section 1-75. The study shall also evaluate: (i) this  
14 policy's potential for wholesale electricity price impacts  
15 in both PJM and MISO, the net rate impact to Illinois  
16 ratepayers, and the impact on grid reliability and  
17 resilience; (ii) whether a 25-year to 40-year guaranteed  
18 contract is necessary to build a high voltage direct  
19 current transmission facility; (iii) whether specific high  
20 voltage direct current transmission facility projects are  
21 committed to Illinois' fair labor and equity standards;  
22 and (iv) whether the policy creates incentives for  
23 renewable development outside of Illinois rather than  
24 within the State.

25 Section 15. The Illinois Procurement Code is amended by

1 changing Section 1-10 as follows:

2 (30 ILCS 500/1-10)

3 Sec. 1-10. Application.

4 (a) This Code applies only to procurements for which  
5 bidders, offerors, potential contractors, or contractors were  
6 first solicited on or after July 1, 1998. This Code shall not  
7 be construed to affect or impair any contract, or any  
8 provision of a contract, entered into based on a solicitation  
9 prior to the implementation date of this Code as described in  
10 Article 99, including, but not limited to, any covenant  
11 entered into with respect to any revenue bonds or similar  
12 instruments. All procurements for which contracts are  
13 solicited between the effective date of Articles 50 and 99 and  
14 July 1, 1998 shall be substantially in accordance with this  
15 Code and its intent.

16 (b) This Code shall apply regardless of the source of the  
17 funds with which the contracts are paid, including federal  
18 assistance moneys. This Code shall not apply to:

19 (1) Contracts between the State and its political  
20 subdivisions or other governments, or between State  
21 governmental bodies, except as specifically provided in  
22 this Code.

23 (2) Grants, except for the filing requirements of  
24 Section 20-80.

25 (3) Purchase of care, except as provided in Section

1 5-30.6 of the Illinois Public Aid Code and this Section.

2 (4) Hiring of an individual as an employee and not as  
3 an independent contractor, whether pursuant to an  
4 employment code or policy or by contract directly with  
5 that individual.

6 (5) Collective bargaining contracts.

7 (6) Purchase of real estate, except that notice of  
8 this type of contract with a value of more than \$25,000  
9 must be published in the Procurement Bulletin within 10  
10 calendar days after the deed is recorded in the county of  
11 jurisdiction. The notice shall identify the real estate  
12 purchased, the names of all parties to the contract, the  
13 value of the contract, and the effective date of the  
14 contract.

15 (7) Contracts necessary to prepare for anticipated  
16 litigation, enforcement actions, or investigations,  
17 provided that the chief legal counsel to the Governor  
18 shall give his or her prior approval when the procuring  
19 agency is one subject to the jurisdiction of the Governor,  
20 and provided that the chief legal counsel of any other  
21 procuring entity subject to this Code shall give his or  
22 her prior approval when the procuring entity is not one  
23 subject to the jurisdiction of the Governor.

24 (8) (Blank).

25 (9) Procurement expenditures by the Illinois  
26 Conservation Foundation when only private funds are used.

1 (10) (Blank).

2 (11) Public-private agreements entered into according  
3 to the procurement requirements of Section 20 of the  
4 Public-Private Partnerships for Transportation Act and  
5 design-build agreements entered into according to the  
6 procurement requirements of Section 25 of the  
7 Public-Private Partnerships for Transportation Act.

8 (12) (A) Contracts for legal, financial, and other  
9 professional and artistic services entered into by the  
10 Illinois Finance Authority in which the State of Illinois  
11 is not obligated. Such contracts shall be awarded through  
12 a competitive process authorized by the members of the  
13 Illinois Finance Authority and are subject to Sections  
14 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of this Code,  
15 as well as the final approval by the members of the  
16 Illinois Finance Authority of the terms of the contract.

17 (B) Contracts for legal and financial services entered  
18 into by the Illinois Housing Development Authority in  
19 connection with the issuance of bonds in which the State  
20 of Illinois is not obligated. Such contracts shall be  
21 awarded through a competitive process authorized by the  
22 members of the Illinois Housing Development Authority and  
23 are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35,  
24 and 50-37 of this Code, as well as the final approval by  
25 the members of the Illinois Housing Development Authority  
26 of the terms of the contract.

1           (13) Contracts for services, commodities, and  
2 equipment to support the delivery of timely forensic  
3 science services in consultation with and subject to the  
4 approval of the Chief Procurement Officer as provided in  
5 subsection (d) of Section 5-4-3a of the Unified Code of  
6 Corrections, except for the requirements of Sections  
7 20-60, 20-65, 20-70, and 20-160 and Article 50 of this  
8 Code; however, the Chief Procurement Officer may, in  
9 writing with justification, waive any certification  
10 required under Article 50 of this Code. For any contracts  
11 for services which are currently provided by members of a  
12 collective bargaining agreement, the applicable terms of  
13 the collective bargaining agreement concerning  
14 subcontracting shall be followed.

15           On and after January 1, 2019, this paragraph (13),  
16 except for this sentence, is inoperative.

17           (14) Contracts for participation expenditures required  
18 by a domestic or international trade show or exhibition of  
19 an exhibitor, member, or sponsor.

20           (15) Contracts with a railroad or utility that  
21 requires the State to reimburse the railroad or utilities  
22 for the relocation of utilities for construction or other  
23 public purpose. Contracts included within this paragraph  
24 (15) shall include, but not be limited to, those  
25 associated with: relocations, crossings, installations,  
26 and maintenance. For the purposes of this paragraph (15),

1 "railroad" means any form of non-highway ground  
2 transportation that runs on rails or electromagnetic  
3 guideways and "utility" means: (1) public utilities as  
4 defined in Section 3-105 of the Public Utilities Act, (2)  
5 telecommunications carriers as defined in Section 13-202  
6 of the Public Utilities Act, (3) electric cooperatives as  
7 defined in Section 3.4 of the Electric Supplier Act, (4)  
8 telephone or telecommunications cooperatives as defined in  
9 Section 13-212 of the Public Utilities Act, (5) rural  
10 water or waste water systems with 10,000 connections or  
11 less, (6) a holder as defined in Section 21-201 of the  
12 Public Utilities Act, and (7) municipalities owning or  
13 operating utility systems consisting of public utilities  
14 as that term is defined in Section 11-117-2 of the  
15 Illinois Municipal Code.

16 (16) Procurement expenditures necessary for the  
17 Department of Public Health to provide the delivery of  
18 timely newborn screening services in accordance with the  
19 Newborn Metabolic Screening Act.

20 (17) Procurement expenditures necessary for the  
21 Department of Agriculture, the Department of Financial and  
22 Professional Regulation, the Department of Human Services,  
23 and the Department of Public Health to implement the  
24 Compassionate Use of Medical Cannabis Program and Opioid  
25 Alternative Pilot Program requirements and ensure access  
26 to medical cannabis for patients with debilitating medical

1 conditions in accordance with the Compassionate Use of  
2 Medical Cannabis Program Act.

3 (18) This Code does not apply to any procurements  
4 necessary for the Department of Agriculture, the  
5 Department of Financial and Professional Regulation, the  
6 Department of Human Services, the Department of Commerce  
7 and Economic Opportunity, and the Department of Public  
8 Health to implement the Cannabis Regulation and Tax Act if  
9 the applicable agency has made a good faith determination  
10 that it is necessary and appropriate for the expenditure  
11 to fall within this exemption and if the process is  
12 conducted in a manner substantially in accordance with the  
13 requirements of Sections 20-160, 25-60, 30-22, 50-5,  
14 50-10, 50-10.5, 50-12, 50-13, 50-15, 50-20, 50-21, 50-35,  
15 50-36, 50-37, 50-38, and 50-50 of this Code; however, for  
16 Section 50-35, compliance applies only to contracts or  
17 subcontracts over \$100,000. Notice of each contract  
18 entered into under this paragraph (18) that is related to  
19 the procurement of goods and services identified in  
20 paragraph (1) through (9) of this subsection shall be  
21 published in the Procurement Bulletin within 14 calendar  
22 days after contract execution. The Chief Procurement  
23 Officer shall prescribe the form and content of the  
24 notice. Each agency shall provide the Chief Procurement  
25 Officer, on a monthly basis, in the form and content  
26 prescribed by the Chief Procurement Officer, a report of

1 contracts that are related to the procurement of goods and  
2 services identified in this subsection. At a minimum, this  
3 report shall include the name of the contractor, a  
4 description of the supply or service provided, the total  
5 amount of the contract, the term of the contract, and the  
6 exception to this Code utilized. A copy of any or all of  
7 these contracts shall be made available to the Chief  
8 Procurement Officer immediately upon request. The Chief  
9 Procurement Officer shall submit a report to the Governor  
10 and General Assembly no later than November 1 of each year  
11 that includes, at a minimum, an annual summary of the  
12 monthly information reported to the Chief Procurement  
13 Officer. This exemption becomes inoperative 5 years after  
14 June 25, 2019 (the effective date of Public Act 101-27).

15 (19) Acquisition of modifications or adjustments,  
16 limited to assistive technology devices and assistive  
17 technology services, adaptive equipment, repairs, and  
18 replacement parts to provide reasonable accommodations (i)  
19 that enable a qualified applicant with a disability to  
20 complete the job application process and be considered for  
21 the position such qualified applicant desires, (ii) that  
22 modify or adjust the work environment to enable a  
23 qualified current employee with a disability to perform  
24 the essential functions of the position held by that  
25 employee, (iii) to enable a qualified current employee  
26 with a disability to enjoy equal benefits and privileges



1 of employment as are enjoyed by other similarly situated  
2 employees without disabilities, and (iv) that allow a  
3 customer, client, claimant, or member of the public  
4 seeking State services full use and enjoyment of and  
5 access to its programs, services, or benefits.

6 For purposes of this paragraph (19):

7 "Assistive technology devices" means any item, piece  
8 of equipment, or product system, whether acquired  
9 commercially off the shelf, modified, or customized, that  
10 is used to increase, maintain, or improve functional  
11 capabilities of individuals with disabilities.

12 "Assistive technology services" means any service that  
13 directly assists an individual with a disability in  
14 selection, acquisition, or use of an assistive technology  
15 device.

16 "Qualified" has the same meaning and use as provided  
17 under the federal Americans with Disabilities Act when  
18 describing an individual with a disability.

19 (20) Procurement expenditures necessary for the  
20 Illinois Commerce Commission to hire third-party  
21 facilitators pursuant to Sections 16-105.17 and 16-108.18  
22 of the Public Utilities Act or an ombudsman pursuant to  
23 Section 16-107.5 of the Public Utilities Act, a  
24 facilitator pursuant to Section 16-105.17 of the Public  
25 Utilities Act, or a grid auditor pursuant to Section  
26 16-105.10 of the Public Utilities Act.

1           (21) Procurement expenditures for the purchase,  
2 renewal, and expansion of software, software licenses, or  
3 software maintenance agreements that support the efforts  
4 of the Illinois State Police to enforce, regulate, and  
5 administer the Firearm Owners Identification Card Act, the  
6 Firearm Concealed Carry Act, the Firearms Restraining  
7 Order Act, the Firearm Dealer License Certification Act,  
8 the Law Enforcement Agencies Data System (LEADS), the  
9 Uniform Crime Reporting Act, the Criminal Identification  
10 Act, the Illinois Uniform Conviction Information Act, and  
11 the Gun Trafficking Information Act, or establish or  
12 maintain record management systems necessary to conduct  
13 human trafficking investigations or gun trafficking or  
14 other stolen firearm investigations. This paragraph (21)  
15 applies to contracts entered into on or after January 10,  
16 2023 (the effective date of Public Act 102-1116) ~~this~~  
17 ~~amendatory Act of the 102nd General Assembly~~ and the  
18 renewal of contracts that are in effect on January 10,  
19 2023 (the effective date of Public Act 102-1116) ~~this~~  
20 ~~amendatory Act of the 102nd General Assembly~~.

21           (22) Contracts for project management services and  
22 system integration services required for the completion of  
23 the State's enterprise resource planning project. This  
24 exemption becomes inoperative 5 years after June 7, 2023  
25 (the effective date of the changes made to this Section by  
26 Public Act 103-8) ~~this amendatory Act of the 103rd General~~

1 ~~Assembly~~. This paragraph (22) applies to contracts entered  
2 into on or after June 7, 2023 (the effective date of the  
3 changes made to this Section by Public Act 103-8) ~~this~~  
4 ~~amendatory Act of the 103rd General Assembly~~ and the  
5 renewal of contracts that are in effect on June 7, 2023  
6 ~~(the effective date of the changes made to this Section by~~  
7 ~~Public Act 103-8) this amendatory Act of the 103rd General~~  
8 ~~Assembly.~~

9 (23) ~~(22)~~ Procurements necessary for the Department of  
10 Insurance to implement the Illinois Health Benefits  
11 Exchange Law if the Department of Insurance has made a  
12 good faith determination that it is necessary and  
13 appropriate for the expenditure to fall within this  
14 exemption. The procurement process shall be conducted in a  
15 manner substantially in accordance with the requirements  
16 of Sections 20-160 and 25-60 and Article 50 of this Code. A  
17 copy of these contracts shall be made available to the  
18 Chief Procurement Officer immediately upon request. This  
19 paragraph is inoperative 5 years after June 27, 2023 (the  
20 effective date of Public Act 103-103) ~~this amendatory Act~~  
21 ~~of the 103rd General Assembly.~~

22 Notwithstanding any other provision of law, for contracts  
23 with an annual value of more than \$100,000 entered into on or  
24 after October 1, 2017 under an exemption provided in any  
25 paragraph of this subsection (b), except paragraph (1), (2),  
26 or (5), each State agency shall post to the appropriate

1 procurement bulletin the name of the contractor, a description  
2 of the supply or service provided, the total amount of the  
3 contract, the term of the contract, and the exception to the  
4 Code utilized. The chief procurement officer shall submit a  
5 report to the Governor and General Assembly no later than  
6 November 1 of each year that shall include, at a minimum, an  
7 annual summary of the monthly information reported to the  
8 chief procurement officer.

9 (c) This Code does not apply to the electric power  
10 procurement process provided for under Section 1-75 of the  
11 Illinois Power Agency Act and Section 16-111.5 of the Public  
12 Utilities Act. This Code does not apply to the procurement of  
13 technical and policy experts pursuant to Section 1-129 of the  
14 Illinois Power Agency Act.

15 (d) Except for Section 20-160 and Article 50 of this Code,  
16 and as expressly required by Section 9.1 of the Illinois  
17 Lottery Law, the provisions of this Code do not apply to the  
18 procurement process provided for under Section 9.1 of the  
19 Illinois Lottery Law.

20 (e) This Code does not apply to the process used by the  
21 Capital Development Board to retain a person or entity to  
22 assist the Capital Development Board with its duties related  
23 to the determination of costs of a clean coal SNG brownfield  
24 facility, as defined by Section 1-10 of the Illinois Power  
25 Agency Act, as required in subsection (h-3) of Section 9-220  
26 of the Public Utilities Act, including calculating the range

1 of capital costs, the range of operating and maintenance  
2 costs, or the sequestration costs or monitoring the  
3 construction of clean coal SNG brownfield facility for the  
4 full duration of construction.

5 (f) (Blank).

6 (g) (Blank).

7 (h) This Code does not apply to the process to procure or  
8 contracts entered into in accordance with Sections 11-5.2 and  
9 11-5.3 of the Illinois Public Aid Code.

10 (i) Each chief procurement officer may access records  
11 necessary to review whether a contract, purchase, or other  
12 expenditure is or is not subject to the provisions of this  
13 Code, unless such records would be subject to attorney-client  
14 privilege.

15 (j) This Code does not apply to the process used by the  
16 Capital Development Board to retain an artist or work or works  
17 of art as required in Section 14 of the Capital Development  
18 Board Act.

19 (k) This Code does not apply to the process to procure  
20 contracts, or contracts entered into, by the State Board of  
21 Elections or the State Electoral Board for hearing officers  
22 appointed pursuant to the Election Code.

23 (l) This Code does not apply to the processes used by the  
24 Illinois Student Assistance Commission to procure supplies and  
25 services paid for from the private funds of the Illinois  
26 Prepaid Tuition Fund. As used in this subsection (l), "private

1 funds" means funds derived from deposits paid into the  
2 Illinois Prepaid Tuition Trust Fund and the earnings thereon.

3 (m) This Code shall apply regardless of the source of  
4 funds with which contracts are paid, including federal  
5 assistance moneys. Except as specifically provided in this  
6 Code, this Code shall not apply to procurement expenditures  
7 necessary for the Department of Public Health to conduct the  
8 Healthy Illinois Survey in accordance with Section 2310-431 of  
9 the Department of Public Health Powers and Duties Law of the  
10 Civil Administrative Code of Illinois.

11 (Source: P.A. 102-175, eff. 7-29-21; 102-483, eff. 1-1-22;  
12 102-558, eff. 8-20-21; 102-600, eff. 8-27-21; 102-662, eff.  
13 9-15-21; 102-721, eff. 1-1-23; 102-813, eff. 5-13-22;  
14 102-1116, eff. 1-10-23; 103-8, eff. 6-7-23; 103-103, eff.  
15 6-27-23; revised 9-5-23.)

16 Section 20. The Counties Code is amended by changing  
17 Section 5-12020 as follows:

18 (55 ILCS 5/5-12020)

19 Sec. 5-12020. Commercial wind energy facilities and  
20 commercial solar energy facilities.

21 (a) As used in this Section:

22 "Commercial solar energy facility" means a "commercial  
23 solar energy system" as defined in Section 10-720 of the  
24 Property Tax Code. "Commercial solar energy facility" does not

1 mean a utility-scale solar energy facility being constructed  
2 at a site that was eligible to participate in a procurement  
3 event conducted by the Illinois Power Agency pursuant to  
4 subsection (c-5) of Section 1-75 of the Illinois Power Agency  
5 Act.

6 "Commercial wind energy facility" means a wind energy  
7 conversion facility of equal or greater than 500 kilowatts in  
8 total nameplate generating capacity. "Commercial wind energy  
9 facility" includes a wind energy conversion facility seeking  
10 an extension of a permit to construct granted by a county or  
11 municipality before January 27, 2023 (the effective date of  
12 Public Act 102-1123) ~~this amendatory Act of the 102nd General~~  
13 ~~Assembly.~~

14 "Facility owner" means (i) a person with a direct  
15 ownership interest in a commercial wind energy facility or a  
16 commercial solar energy facility, or both, regardless of  
17 whether the person is involved in acquiring the necessary  
18 rights, permits, and approvals or otherwise planning for the  
19 construction and operation of the facility, and (ii) at the  
20 time the facility is being developed, a person who is acting as  
21 a developer of the facility by acquiring the necessary rights,  
22 permits, and approvals or by planning for the construction and  
23 operation of the facility, regardless of whether the person  
24 will own or operate the facility.

25 "Nonparticipating property" means real property that is  
26 not a participating property.

1 "Nonparticipating residence" means a residence that is  
2 located on nonparticipating property and that is existing and  
3 occupied on the date that an application for a permit to  
4 develop the commercial wind energy facility or the commercial  
5 solar energy facility is filed with the county.

6 "Occupied community building" means any one or more of the  
7 following buildings that is existing and occupied on the date  
8 that the application for a permit to develop the commercial  
9 wind energy facility or the commercial solar energy facility  
10 is filed with the county: a school, place of worship, day care  
11 facility, public library, or community center.

12 "Participating property" means real property that is the  
13 subject of a written agreement between a facility owner and  
14 the owner of the real property that provides the facility  
15 owner an easement, option, lease, or license to use the real  
16 property for the purpose of constructing a commercial wind  
17 energy facility, a commercial solar energy facility, or  
18 supporting facilities. "Participating property" also includes  
19 real property that is owned by a facility owner for the purpose  
20 of constructing a commercial wind energy facility, a  
21 commercial solar energy facility, or supporting facilities.

22 "Participating residence" means a residence that is  
23 located on participating property and that is existing and  
24 occupied on the date that an application for a permit to  
25 develop the commercial wind energy facility or the commercial  
26 solar energy facility is filed with the county.



1 "Protected lands" means real property that is:

2 (1) subject to a permanent conservation right  
3 consistent with the Real Property Conservation Rights Act;  
4 or

5 (2) registered or designated as a nature preserve,  
6 buffer, or land and water reserve under the Illinois  
7 Natural Areas Preservation Act.

8 "Supporting facilities" means the transmission lines,  
9 substations, access roads, meteorological towers, storage  
10 containers, and equipment associated with the generation and  
11 storage of electricity by the commercial wind energy facility  
12 or commercial solar energy facility.

13 "Wind tower" includes the wind turbine tower, nacelle, and  
14 blades.

15 (b) Notwithstanding any other provision of law or whether  
16 the county has formed a zoning commission and adopted formal  
17 zoning under Section 5-12007, a county may establish standards  
18 for commercial wind energy facilities, commercial solar energy  
19 facilities, or both. The standards may include all of the  
20 requirements specified in this Section but may not include  
21 requirements for commercial wind energy facilities or  
22 commercial solar energy facilities that are more restrictive  
23 than specified in this Section. A county may also regulate the  
24 siting of commercial wind energy facilities with standards  
25 that are not more restrictive than the requirements specified  
26 in this Section in unincorporated areas of the county that are

1 outside the zoning jurisdiction of a municipality and that are  
2 outside the 1.5-mile radius surrounding the zoning  
3 jurisdiction of a municipality.

4 (c) If a county has elected to establish standards under  
5 subsection (b), before the county grants siting approval or a  
6 special use permit for a commercial wind energy facility or a  
7 commercial solar energy facility, or modification of an  
8 approved siting or special use permit, the county board of the  
9 county in which the facility is to be sited or the zoning board  
10 of appeals for the county shall hold at least one public  
11 hearing. The public hearing shall be conducted in accordance  
12 with the Open Meetings Act and shall be held not more than 60  
13 ~~45~~ days after the filing of the application for the facility.  
14 The county shall allow interested parties to a special use  
15 permit an opportunity to present evidence and to cross-examine  
16 witnesses at the hearing, but the county may impose reasonable  
17 restrictions on the public hearing, including reasonable time  
18 limitations on the presentation of evidence and the  
19 cross-examination of witnesses. The county shall also allow  
20 public comment at the public hearing in accordance with the  
21 Open Meetings Act. The county shall make its siting and  
22 permitting decisions not more than 30 days after the  
23 conclusion of the public hearing. Notice of the hearing shall  
24 be published in a newspaper of general circulation in the  
25 county. A facility owner must enter into an agricultural  
26 impact mitigation agreement with the Department of Agriculture

1 prior to the date of the required public hearing. A commercial  
 2 wind energy facility owner seeking an extension of a permit  
 3 granted by a county prior to July 24, 2015 (the effective date  
 4 of Public Act 99-132) must enter into an agricultural impact  
 5 mitigation agreement with the Department of Agriculture prior  
 6 to a decision by the county to grant the permit extension.  
 7 Counties may allow test wind towers or test solar energy  
 8 systems to be sited without formal approval by the county  
 9 board.

10 (d) A county with an existing zoning ordinance in conflict  
 11 with this Section shall amend that zoning ordinance to be in  
 12 compliance with this Section within 120 days after January 27,  
 13 2023 (the effective date of Public Act 102-1123) ~~this~~  
 14 ~~amendatory Act of the 102nd General Assembly.~~

15 (e) A county may require:

16 (1) a wind tower of a commercial wind energy facility  
 17 to be sited as follows, with setback distances measured  
 18 from the center of the base of the wind tower:

19 Setback Description	Setback Distance
20 Occupied Community	2.1 times the maximum blade tip
21 Buildings	height of the wind tower to the
22	nearest point on the outside
23	wall of the structure

1	Participating Residences	1.1 times the maximum blade tip
2		height of the wind tower to the
3		nearest point on the outside
4		wall of the structure
5	Nonparticipating Residences	2.1 times the maximum blade tip
6		height of the wind tower to the
7		nearest point on the outside
8		wall of the structure
9	Boundary Lines of	None
10	Participating Property	
11	Boundary Lines of	1.1 times the maximum blade tip
12	Nonparticipating Property	height of the wind tower to the
13		nearest point on the property
14		line of the nonparticipating
15		property
16	Public Road Rights-of-Way	1.1 times the maximum blade tip
17		height of the wind tower
18		to the center point of the
19		public road right-of-way
20	Overhead Communication and	1.1 times the maximum blade tip
21	Electric Transmission	height of the wind tower to the

1 and Distribution Facilities nearest edge of the property  
 2 (Not Including Overhead line, easement, or  
 3 Utility Service Lines to right-of-way ~~right-of-way~~  
 4 Individual Houses or containing the overhead line  
 5 Outbuildings)

6 Overhead Utility Service None  
 7 Lines to Individual  
 8 Houses or Outbuildings

9 Fish and Wildlife Areas 2.1 times the maximum blade  
 10 and Illinois Nature tip height of the wind tower  
 11 Preserve Commission to the nearest point on the  
 12 Protected Lands property line of the fish and  
 13 wildlife area or protected  
 14 land

15 This Section does not exempt or excuse compliance with  
 16 electric facility clearances approved or required by the  
 17 National Electrical Code, The National Electrical Safety  
 18 Code, Illinois Commerce Commission, Federal Energy  
 19 Regulatory Commission, and their designees or successors.

20 (2) a wind tower of a commercial wind energy facility  
 21 to be sited so that industry standard computer modeling  
 22 indicates that any occupied community building or  
 23 nonparticipating residence will not experience more than

1 30 hours per year of shadow flicker under planned  
2 operating conditions;

3 (3) a commercial solar energy facility to be sited as  
4 follows, with setback distances measured from the nearest  
5 edge of any component of the facility:

6	Setback Description	Setback Distance
7	Occupied Community	150 feet from the nearest
8	Buildings and Dwellings on	point on the outside wall
9	Nonparticipating Properties	of the structure
10	Boundary Lines of	None
11	Participating Property	
12	Public Road Rights-of-Way	50 feet from the nearest
13		edge
14	Boundary Lines of	50 feet to the nearest
15	Nonparticipating Property	point on the property
16		line of the nonparticipating
17		property

18 (4) a commercial solar energy facility to be sited so  
19 that the facility's perimeter is enclosed by fencing  
20 having a height of at least 6 feet and no more than 25

1 feet; and

2 (5) a commercial solar energy facility to be sited so  
3 that no component of a solar panel has a height of more  
4 than 20 feet above ground when the solar energy facility's  
5 arrays are at full tilt.

6 The requirements set forth in this subsection (e) may be  
7 waived subject to the written consent of the owner of each  
8 affected nonparticipating property.

9 (f) A county may not set a sound limitation for wind towers  
10 in commercial wind energy facilities or any components in  
11 commercial solar energy facilities ~~facility~~ that is more  
12 restrictive than the sound limitations established by the  
13 Illinois Pollution Control Board under 35 Ill. Adm. Code Parts  
14 900, 901, and 910.

15 (g) A county may not place any restriction on the  
16 installation or use of a commercial wind energy facility or a  
17 commercial solar energy facility unless it adopts an ordinance  
18 that complies with this Section. A county may not establish  
19 siting standards for supporting facilities that preclude  
20 development of commercial wind energy facilities or commercial  
21 solar energy facilities.

22 A request for siting approval or a special use permit for a  
23 commercial wind energy facility or a commercial solar energy  
24 facility, or modification of an approved siting or special use  
25 permit, shall be approved if the request is in compliance with  
26 the standards and conditions imposed in this Act, the zoning

1 ordinance adopted consistent with this Code, and the  
2 conditions imposed under State and federal statutes and  
3 regulations.

4 (h) A county may not adopt zoning regulations that  
5 disallow, permanently or temporarily, commercial wind energy  
6 facilities or commercial solar energy facilities from being  
7 developed or operated in any district zoned to allow  
8 agricultural or industrial uses.

9 (i) A county may not require permit application fees for a  
10 commercial wind energy facility or commercial solar energy  
11 facility that are unreasonable. All application fees imposed  
12 by the county shall be consistent with fees for projects in the  
13 county with similar capital value and cost.

14 (j) Except as otherwise provided in this Section, a county  
15 shall not require standards for construction, decommissioning,  
16 or deconstruction of a commercial wind energy facility or  
17 commercial solar energy facility or related financial  
18 assurances that are more restrictive than those included in  
19 the Department of Agriculture's standard wind farm  
20 agricultural impact mitigation agreement, template 81818, or  
21 standard solar agricultural impact mitigation agreement,  
22 version 8.19.19, as applicable and in effect on December 31,  
23 2022. The amount of any decommissioning payment shall be in  
24 accordance with the financial assurance ~~limited to the cost~~  
25 ~~identified in the decommissioning or deconstruction plan,~~ as  
26 required by those agricultural impact mitigation agreements,



1 ~~minus the salvage value of the project.~~

2 (j-5) A commercial wind energy facility or a commercial  
3 solar energy facility shall file a farmland drainage plan with  
4 the county and impacted drainage districts outlining how  
5 surface and subsurface drainage of farmland will be restored  
6 during and following construction or deconstruction of the  
7 facility. The plan is to be created independently by the  
8 facility developer and shall include the location of any  
9 potentially impacted drainage district facilities to the  
10 extent this information is publicly available from the county  
11 or the drainage district, plans to repair any subsurface  
12 drainage affected during construction or deconstruction using  
13 procedures outlined in the agricultural impact mitigation  
14 agreement entered into by the commercial wind energy facility  
15 owner or commercial solar energy facility owner, and  
16 procedures for the repair and restoration of surface drainage  
17 affected during construction or deconstruction. All surface  
18 and subsurface damage shall be repaired as soon as reasonably  
19 practicable.

20 (k) A county may not condition approval of a commercial  
21 wind energy facility or commercial solar energy facility on a  
22 property value guarantee and may not require a facility owner  
23 to pay into a neighboring property devaluation escrow account.

24 (l) A county may require certain vegetative screening  
25 surrounding a commercial wind energy facility or commercial  
26 solar energy facility but may not require earthen berms or

1 similar structures.

2 (m) A county may set blade tip height limitations for wind  
3 towers in commercial wind energy facilities but may not set a  
4 blade tip height limitation that is more restrictive than the  
5 height allowed under a Determination of No Hazard to Air  
6 Navigation by the Federal Aviation Administration under 14 CFR  
7 Part 77.

8 (n) A county may require that a commercial wind energy  
9 facility owner or commercial solar energy facility owner  
10 provide:

11 (1) the results and recommendations from consultation  
12 with the Illinois Department of Natural Resources that are  
13 obtained through the Ecological Compliance Assessment Tool  
14 (EcoCAT) or a comparable successor tool; and

15 (2) the results of the United States Fish and Wildlife  
16 Service's Information for Planning and Consulting  
17 environmental review or a comparable successor tool that  
18 is consistent with (i) the "U.S. Fish and Wildlife  
19 Service's Land-Based Wind Energy Guidelines" and (ii) any  
20 applicable United States Fish and Wildlife Service solar  
21 wildlife guidelines that have been subject to public  
22 review.

23 (o) A county may require a commercial wind energy facility  
24 or commercial solar energy facility to adhere to the  
25 recommendations provided by the Illinois Department of Natural  
26 Resources in an EcoCAT natural resource review report under 17

1 Ill. Adm. ~~Admin.~~ Code Part 1075.

2 (p) A county may require a facility owner to:

3 (1) demonstrate avoidance of protected lands as  
4 identified by the Illinois Department of Natural Resources  
5 and the Illinois Nature Preserve Commission; or

6 (2) consider the recommendations of the Illinois  
7 Department of Natural Resources for setbacks from  
8 protected lands, including areas identified by the  
9 Illinois Nature Preserve Commission.

10 (q) A county may require that a facility owner provide  
11 evidence of consultation with the Illinois State Historic  
12 Preservation Office to assess potential impacts on  
13 State-registered historic sites under the Illinois State  
14 Agency Historic Resources Preservation Act.

15 (r) To maximize community benefits, including, but not  
16 limited to, reduced stormwater runoff, flooding, and erosion  
17 at the ground mounted solar energy system, improved soil  
18 health, and increased foraging habitat for game birds,  
19 songbirds, and pollinators, a county may (1) require a  
20 commercial solar energy facility owner to plant, establish,  
21 and maintain for the life of the facility vegetative ground  
22 cover, consistent with the goals of the Pollinator-Friendly  
23 Solar Site Act and (2) require the submittal of a vegetation  
24 management plan that is in compliance with the agricultural  
25 impact mitigation agreement in the application to construct  
26 and operate a commercial solar energy facility in the county

1 if the vegetative ground cover and vegetation management plan  
2 comply with the requirements of the underlying agreement with  
3 the landowner or landowners where the facility will be  
4 constructed.

5 No later than 90 days after January 27, 2023 (the  
6 effective date of Public Act 102-1123) ~~this amendatory Act of~~  
7 ~~the 102nd General Assembly~~, the Illinois Department of Natural  
8 Resources shall develop guidelines for vegetation management  
9 plans that may be required under this subsection for  
10 commercial solar energy facilities. The guidelines must  
11 include guidance for short-term and long-term property  
12 management practices that provide and maintain native and  
13 non-invasive naturalized perennial vegetation to protect the  
14 health and well-being of pollinators.

15 (s) If a facility owner enters into a road use agreement  
16 with the Illinois Department of Transportation, a road  
17 district, or other unit of local government relating to a  
18 commercial wind energy facility or a commercial solar energy  
19 facility, the road use agreement shall require the facility  
20 owner to be responsible for (i) the reasonable cost of  
21 improving roads used by the facility owner to construct the  
22 commercial wind energy facility or the commercial solar energy  
23 facility and (ii) the reasonable cost of repairing roads used  
24 by the facility owner during construction of the commercial  
25 wind energy facility or the commercial solar energy facility  
26 so that those roads are in a condition that is safe for the

1 driving public after the completion of the facility's  
2 construction. Roadways improved in preparation for and during  
3 the construction of the commercial wind energy facility or  
4 commercial solar energy facility shall be repaired and  
5 restored to the improved condition at the reasonable cost of  
6 the developer if the roadways have degraded or were damaged as  
7 a result of construction-related activities.

8 The road use agreement shall not require the facility  
9 owner to pay costs, fees, or charges for road work that is not  
10 specifically and uniquely attributable to the construction of  
11 the commercial wind energy facility or the commercial solar  
12 energy facility. Road-related fees, permit fees, or other  
13 charges imposed by the Illinois Department of Transportation,  
14 a road district, or other unit of local government under a road  
15 use agreement with the facility owner shall be reasonably  
16 related to the cost of administration of the road use  
17 agreement.

18 (s-5) The facility owner shall also compensate landowners  
19 for crop losses or other agricultural damages resulting from  
20 damage to the drainage system caused by the construction of  
21 the commercial wind energy facility or the commercial solar  
22 energy facility. The commercial wind energy facility owner or  
23 commercial solar energy facility owner shall repair or pay for  
24 the repair of all damage to the subsurface drainage system  
25 caused by the construction of the commercial wind energy  
26 facility or the commercial solar energy facility in accordance

1 with the agriculture impact mitigation agreement requirements  
2 for repair of drainage. The commercial wind energy facility  
3 owner or commercial solar energy facility owner shall repair  
4 or pay for the repair and restoration of surface drainage  
5 caused by the construction or deconstruction of the commercial  
6 wind energy facility or the commercial solar energy facility  
7 as soon as reasonably practicable.

8 (t) Notwithstanding any other provision of law, a facility  
9 owner with siting approval from a county to construct a  
10 commercial wind energy facility or a commercial solar energy  
11 facility is authorized to cross or impact a drainage system,  
12 including, but not limited to, drainage tiles, open drainage  
13 ditches ~~districts~~, culverts, and water gathering vaults, owned  
14 or under the control of a drainage district under the Illinois  
15 Drainage Code without obtaining prior agreement or approval  
16 from the drainage district in accordance with the farmland  
17 drainage plan required by subsection (j-5), ~~except that the~~  
18 ~~facility owner shall repair or pay for the repair of all damage~~  
19 ~~to the drainage system caused by the construction of the~~  
20 ~~commercial wind energy facility or the commercial solar energy~~  
21 ~~facility within a reasonable time after construction of the~~  
22 ~~commercial wind energy facility or the commercial solar energy~~  
23 ~~facility is complete.~~

24 (u) The amendments to this Section adopted in Public Act  
25 102-1123 do not apply to: (1) an application for siting  
26 approval or for a special use permit for a commercial wind

1 energy facility or commercial solar energy facility if the  
2 application was submitted to a unit of local government before  
3 January 27, 2023 (the effective date of Public Act 102-1123)  
4 ~~this amendatory Act of the 102nd General Assembly~~; (2) a  
5 commercial wind energy facility or a commercial solar energy  
6 facility if the facility owner has submitted an agricultural  
7 impact mitigation agreement to the Department of Agriculture  
8 before January 27, 2023 (the effective date of Public Act  
9 102-1123) ~~this amendatory Act of the 102nd General Assembly~~;  
10 or (3) a commercial wind energy or commercial solar energy  
11 development on property that is located within an enterprise  
12 zone certified under the Illinois Enterprise Zone Act, that  
13 was classified as industrial by the appropriate zoning  
14 authority on or before January 27, 2023, and that is located  
15 within 4 miles of the intersection of Interstate 88 and  
16 Interstate 39.

17 (Source: P.A. 102-1123, eff. 1-27-23; 103-81, eff. 6-9-23;  
18 revised 9-25-23.)

19 Section 25. The Public Utilities Act is amended by adding  
20 Section 4-610 as follows:

21 (220 ILCS 5/4-610 new)

22 Sec. 4-610. Thermal energy networks.

23 (a) The General Assembly finds that:

24 (1) the State has an interest in decarbonizing

1 buildings in a manner that is affordable and accessible,  
2 preserves and creates living-wage jobs, and retains the  
3 knowledge and experience of the existing utility  
4 workforce;

5 (2) thermal energy networks have the potential to  
6 affordably decarbonize buildings at the community-scale  
7 and utility-scale and help achieve the goals of the  
8 Climate and Equitable Jobs Act (Public Act 102-662);

9 (3) the construction industry is highly skilled and  
10 labor intensive, and the installation of modern thermal  
11 energy networks involves particularly complex work,  
12 therefore effective qualification standards for craft  
13 labor personnel employed on these projects are critically  
14 needed to promote successful project delivery; and

15 (4) it is the intent of the General Assembly to  
16 establish a stakeholder workshop within the Commission to  
17 promote the successful planning and delivery of thermal  
18 energy networks in an equitable manner that reduces  
19 emissions, offers affordable building decarbonization, and  
20 provides opportunities for employment with fair labor  
21 standards and preapprenticeship and apprenticeship  
22 programs.

23 (b) As used in this Section:

24 "Thermal energy" means piped noncombustible fluids used  
25 for transferring heat into and out of buildings for the  
26 purpose of reducing any resultant onsite greenhouse gas



1 emissions of all types of heating and cooling processes,  
2 including, but not limited to, comfort heating and cooling,  
3 domestic hot water, and refrigeration.

4 "Thermal energy network" means all real estate, fixtures,  
5 and personal property operated, owned, used, or to be used  
6 for, in connection with, or to facilitate a utility-scale  
7 distribution infrastructure project that supplies thermal  
8 energy.

9 (c) The Commission, in order to develop a regulatory  
10 structure for utility thermal energy networks that scale with  
11 affordable and accessible building electrification, protect  
12 utility customers, and promote the successful planning and  
13 delivery of thermal energy networks, shall convene a workshop  
14 process for the purpose of establishing an open, inclusive,  
15 and cooperative forum regarding such thermal energy networks.  
16 The workshops may be facilitated by an independent,  
17 third-party facilitator selected by the Commission. The series  
18 of workshops shall include no fewer than 3 workshops. After  
19 the conclusion of the workshops, the Commission shall open a  
20 comment period that allows interested and diverse stakeholders  
21 to submit comments and recommendations regarding the thermal  
22 energy networks. Based on the workshop process and stakeholder  
23 comments and recommendations offered verbally or in writing  
24 during the workshops and in writing during the comment period  
25 following the workshops, the Commission or, if applicable, the  
26 independent third-party facilitator, shall prepare a report,

1 to be submitted to the Governor and the General Assembly no  
2 later than March 1, 2024, describing the stakeholders,  
3 discussions, proposals, and areas of consensus and  
4 disagreement from the workshop process, and making  
5 recommendations regarding thermal energy networks.

6 (d) The workshop shall be designed to achieve the  
7 following objectives:

8 (1) determine appropriate ownership, market, and rate  
9 structures for thermal energy networks and whether the  
10 provision of thermal energy services by thermal network  
11 energy providers is in the public interest;

12 (2) consider project designs that could maximize the  
13 value of existing State energy efficiency and  
14 weatherization programs and maximize federal funding  
15 opportunities to the extent practicable;

16 (3) determine whether thermal energy network projects  
17 further climate justice and emissions reductions and  
18 benefits to utility customers and society at large,  
19 including but not limited to public health benefits in  
20 areas with disproportionate environmental burdens, job  
21 retention and creation, reliability, and increased  
22 affordability of renewable thermal energy options;

23 (4) consider approaches to thermal energy network  
24 projects that advance financial and technical approaches  
25 to equitable and affordable building electrification,  
26 including access to thermal energy network benefits by low

1       and moderate income households; and  
2           (5) consider approaches to promote the training and  
3       transition of utility workers to work on thermal energy  
4       networks.

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

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