



Sen. Donne E. Trotter

**Filed: 5/12/2016**

09900SB1585sam003

LRB099 09533 EGJ 48556 a

1 AMENDMENT TO SENATE BILL 1585

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1585, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 1. Findings.

6 (a) In 2011, the General Assembly encouraged and enabled  
7 the State's largest electric utilities to undertake  
8 substantial investment to refurbish, rebuild, modernize, and  
9 expand Illinois' century-old electric grid. Among those  
10 investments were the deployment of a smart grid and advanced  
11 metering infrastructure platform that would be accessible to  
12 all retail customers through new, digital smart meters. This  
13 investment, now well underway, not only allows utilities to  
14 continue to provide safe, reliable, and affordable service to  
15 the State's current and future utility customers, but also  
16 empowers the citizens of this State to directly access and  
17 participate in the rapidly emerging clean energy economy while

1 also presenting them with unprecedented choices in their source  
2 of energy supply and pricing.

3 To ensure that the State and its citizens, including  
4 low-income citizens, are equipped to enjoy the opportunities  
5 and benefits of the smart grid and evolving clean energy  
6 marketplace, the General Assembly finds and declares that  
7 Illinois should continue in its efforts to build the grid of  
8 the future using the smart grid and advanced metering  
9 infrastructure platform, as well as maximize the impact of the  
10 State's existing energy efficiency and renewable energy  
11 portfolio standards. Specifically, the Generally Assembly  
12 finds that:

13 (1) the State should encourage the adoption and  
14 deployment of cost-effective distributed energy resource  
15 technologies and devices, such as photovoltaics, which can  
16 encourage private investment in renewable energy  
17 resources, stimulate economic growth, enhance the  
18 continued diversification of Illinois' energy resource  
19 mix, and protect the Illinois environment;

20 (2) the State's existing energy efficiency standard  
21 should be updated to ensure that customers continue to  
22 realize increased value, to incorporate and optimize  
23 measures enabled by the smart grid, including voltage  
24 optimization measures, and to provide incentives for  
25 electric utilities to achieve the energy savings goals; and

26 (3) the State's electric utilities should initiate

1 programs to study the benefits of smart-grid enabled  
2 technologies, including, but not limited to, deploying  
3 microgrids and electric vehicle charging stations. Such  
4 programs are not required to be cost effective so long as a  
5 goal of the program is to analyze cost effectiveness. The  
6 costs to implement, manage, and analyze such programs shall  
7 be recovered through delivery service rates.

8 (b) The General Assembly further finds that the expansion  
9 of distributed generation technologies and devices across the  
10 State necessarily disrupts existing electricity generation and  
11 distribution models and frameworks, including related rate and  
12 tariff schedules, which can lead to inequitable charges,  
13 especially for low-income customers who often encounter the  
14 most substantial obstacles to adopting costly distributed  
15 generation technologies and devices. As a result, the General  
16 Assembly finds that low-income customers should be included  
17 within the State's efforts to expand the use of distributed  
18 generation technologies and devices. To address these issues,  
19 electric utilities should also be permitted to file revised  
20 tariffs related to implementing low-income programs,  
21 demand-based delivery services charges, and unbundling  
22 supply-related charges. These changes should be designed to  
23 ensure both an equitable allocation of costs so that no  
24 customers have to pay more than their fair share of these costs  
25 and that all costs are recovered, thus ensuring better and more  
26 equitable access to distributed generation and other energy

1 options.

2 Section 1.5. Zero emission standard legislative findings.

3 The General Assembly finds and declares:

4 (1) Reducing emissions of carbon dioxide and other air  
5 pollutants, such as sulfur oxides, nitrogen oxides, and  
6 particulate matter, is critical to improving air quality in  
7 Illinois for Illinois residents.

8 (2) Sulfur oxides, nitrogen oxides, and particulate  
9 emissions have significant adverse health effects on  
10 persons exposed to them, and carbon dioxide emissions  
11 result in climate change trends that could significantly  
12 adversely impact Illinois.

13 (3) The existing renewable portfolio standard has been  
14 successful in promoting the growth of renewable energy  
15 generation to reduce air pollution in Illinois. However, to  
16 achieve its environmental goals, Illinois must expand its  
17 commitment to zero emission energy generation and value the  
18 environmental attributes of zero emission generation that  
19 currently falls outside the scope of the existing renewable  
20 portfolio standard, including, but not limited to, nuclear  
21 power.

22 (4) Preserving existing zero emission energy  
23 generation and promoting new zero emission energy  
24 generation is vital to placing the State on a glide path to  
25 achieving its environmental goals and ensuring that air

1 quality in Illinois continues to improve.

2 (5) The Illinois Commerce Commission, the Illinois  
3 Power Agency, the Illinois Environmental Protection  
4 Agency, and the Department of Commerce and Economic  
5 Opportunity issued a report dated January 5, 2015 titled  
6 "Potential Nuclear Power Plant Closings in Illinois" (the  
7 Report), which addressed the issues identified by Illinois  
8 House Resolution 1146 of the 98th General Assembly, which,  
9 among other things, urged the Illinois Environmental  
10 Protection Agency to prepare a report showing how the  
11 premature closure of existing nuclear power plants in  
12 Illinois will affect the societal cost of increased  
13 greenhouse gas emissions based upon the Environmental  
14 Protection Agency's published societal cost of greenhouse  
15 gases.

16 (6) The Report also identified significant adverse  
17 consequences for electric reliability in Illinois,  
18 including significant voltage and thermal violations in  
19 the interstate transmission network, in the event that  
20 Illinois' existing nuclear facilities close prematurely.  
21 The Report also found that nuclear power plants are among  
22 the most reliable sources of energy, which means that  
23 electricity from nuclear power plants is available on the  
24 electric grid all hours of the day and when needed, thereby  
25 always reducing carbon emissions.

26 (7) Illinois House Resolution 1146 further urged that

1 the Report make findings concerning potential market-based  
2 solutions that will ensure that the premature closure of  
3 these nuclear power plants does not occur and that the  
4 associated dire consequences to the environment, electric  
5 reliability, and the regional economy are averted.

6 (8) The Report identified potential market-based  
7 solutions that will ensure that the premature closure of  
8 these nuclear power plants does not occur and that the  
9 associated dire consequences to the environment, electric  
10 reliability, and the regional economy are averted.

11 The General Assembly therefore finds that it is necessary  
12 to establish and implement a zero emission standard, which will  
13 increase the State's reliance on zero emission energy through  
14 the procurement of zero emission energy credits from zero  
15 emission resources, in order to achieve the State's  
16 environmental objectives and reduce the adverse impact of  
17 emitted air pollutants on the health and welfare of the State's  
18 citizens.

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

21 (20 ILCS 3855/1-5)

22 Sec. 1-5. Legislative declarations and findings. The  
23 General Assembly finds and declares:

24 (1) The health, welfare, and prosperity of all Illinois

1 citizens require the provision of adequate, reliable,  
2 affordable, efficient, and environmentally sustainable  
3 electric service at the lowest total cost over time, taking  
4 into account any benefits of price stability.

5 (2) (Blank). ~~The transition to retail competition is~~  
6 ~~not complete. Some customers, especially residential and~~  
7 ~~small commercial customers, have failed to benefit from~~  
8 ~~lower electricity costs from retail and wholesale~~  
9 ~~competition.~~

10 (3) (Blank). ~~Escalating prices for electricity in~~  
11 ~~Illinois pose a serious threat to the economic well being,~~  
12 ~~health, and safety of the residents of and the commerce and~~  
13 ~~industry of the State.~~

14 (4) It ~~To protect against this threat to economic~~  
15 ~~well being, health, and safety it is necessary to improve~~  
16 the process of procuring electricity to serve Illinois  
17 residents, to promote investment in energy efficiency and  
18 demand-response measures, and to maintain and support  
19 development of clean coal technologies, generation  
20 resources that operate at all hours of the day and under  
21 all weather conditions, zero emission resources, and  
22 renewable resources.

23 (5) Procuring a diverse electricity supply portfolio  
24 will ensure the lowest total cost over time for adequate,  
25 reliable, efficient, and environmentally sustainable  
26 electric service.

1           (6) Including cost-effective renewable resources and  
2           zero emission credits from zero emission resources in that  
3           portfolio will reduce long-term direct and indirect costs  
4           to consumers by decreasing environmental impacts and by  
5           avoiding or delaying the need for new generation,  
6           transmission, and distribution infrastructure.

7           (7) Energy efficiency, demand-response measures, zero  
8           emission energy, and renewable energy are resources  
9           currently underused in Illinois.

10          (8) The State should encourage the use of advanced  
11          clean coal technologies that capture and sequester carbon  
12          dioxide emissions to advance environmental protection  
13          goals and to demonstrate the viability of coal and  
14          coal-derived fuels in a carbon-constrained economy.

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

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

24          The General Assembly therefore finds that it is necessary  
25          to create the Illinois Power Agency and that the goals and  
26          objectives of that Agency are to accomplish each of the

1 following:

2 (A) Develop electricity procurement plans to ensure  
3 adequate, reliable, affordable, efficient, and  
4 environmentally sustainable electric service at the lowest  
5 total cost over time, taking into account any benefits of  
6 price stability, for electric utilities that on December  
7 31, 2005 provided electric service to at least 100,000  
8 customers in Illinois and for small multi-jurisdictional  
9 electric utilities that (i) on December 31, 2005 served  
10 less than 100,000 customers in Illinois and (ii) request a  
11 procurement plan for their Illinois jurisdictional load.  
12 The procurement plan shall be updated on an annual basis  
13 and shall include renewable energy resources and,  
14 beginning with the planning year commencing June 1, 2017,  
15 zero emission credits from zero emission resources  
16 sufficient to achieve the standards specified in this Act.

17 (B) Conduct competitive procurement processes to  
18 procure the supply resources identified in the procurement  
19 plan.

20 (C) Develop electric generation and co-generation  
21 facilities that use indigenous coal or renewable  
22 resources, or both, financed with bonds issued by the  
23 Illinois Finance Authority.

24 (D) Supply electricity from the Agency's facilities at  
25 cost to one or more of the following: municipal electric  
26 systems, governmental aggregators, or rural electric

1 cooperatives in Illinois.

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

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

9 (G) Operate in a structurally insulated, independent,  
10 and transparent fashion so that nothing impedes the  
11 Agency's mission to secure power at the best prices the  
12 market will bear, provided that the Agency meets all  
13 applicable legal requirements.

14 (Source: P.A. 97-325, eff. 8-12-11; 97-618, eff. 10-26-11;  
15 97-813, eff. 7-13-12.)

16 (20 ILCS 3855/1-10)

17 Sec. 1-10. Definitions.

18 "Agency" means the Illinois Power Agency.

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

1 project.

2 "Authority" means the Illinois Finance Authority.

3 "Brownfield site project" means photovoltaics located at a  
4 site that is:

5 (1) located in an area that, on April 5, 2004, was in  
6 non-attainment for the National Ambient Air Quality  
7 Standard 1997 PM2.5 Standard;

8 (2) interconnected at the distribution system level of  
9 either an electric utility as defined in this Section, a  
10 municipal utility, or an electric cooperative, as defined  
11 in Section 3-119 of the Public Utilities Act; and

12 (3) regulated by any of the following entities under  
13 the following programs:

14 (i) the United States Environmental Protection  
15 Agency under the federal Comprehensive Environmental  
16 Response, Compensation, and Liability Act of 1980, as  
17 amended;

18 (ii) the United States Environmental Protection  
19 Agency under the Corrective Action Program of the  
20 federal Resource Conservation and Recovery Act, as  
21 amended; or

22 (iii) the Illinois Environmental Protection Agency  
23 under the Illinois Site Remediation Program.

24 "Clean coal facility" means an electric generating  
25 facility that uses primarily coal as a feedstock and that  
26 captures and sequesters carbon dioxide emissions at the

1 following levels: at least 50% of the total carbon dioxide  
2 emissions that the facility would otherwise emit if, at the  
3 time construction commences, the facility is scheduled to  
4 commence operation before 2016, at least 70% of the total  
5 carbon dioxide emissions that the facility would otherwise emit  
6 if, at the time construction commences, the facility is  
7 scheduled to commence operation during 2016 or 2017, and at  
8 least 90% of the total carbon dioxide emissions that the  
9 facility would otherwise emit if, at the time construction  
10 commences, the facility is scheduled to commence operation  
11 after 2017. The power block of the clean coal facility shall  
12 not exceed allowable emission rates for sulfur dioxide,  
13 nitrogen oxides, carbon monoxide, particulates and mercury for  
14 a natural gas-fired combined-cycle facility the same size as  
15 and in the same location as the clean coal facility at the time  
16 the clean coal facility obtains an approved air permit. All  
17 coal used by a clean coal facility shall have high volatile  
18 bituminous rank and greater than 1.7 pounds of sulfur per  
19 million btu content, unless the clean coal facility does not  
20 use gasification technology and was operating as a conventional  
21 coal-fired electric generating facility on June 1, 2009 (the  
22 effective date of Public Act 95-1027).

23 "Clean coal SNG brownfield facility" means a facility that  
24 (1) has commenced construction by July 1, 2015 on an urban  
25 brownfield site in a municipality with at least 1,000,000  
26 residents; (2) uses a gasification process to produce

1 substitute natural gas; (3) uses coal as at least 50% of the  
2 total feedstock over the term of any sourcing agreement with a  
3 utility and the remainder of the feedstock may be either  
4 petroleum coke or coal, with all such coal having a high  
5 bituminous rank and greater than 1.7 pounds of sulfur per  
6 million Btu content unless the facility reasonably determines  
7 that it is necessary to use additional petroleum coke to  
8 deliver additional consumer savings, in which case the facility  
9 shall use coal for at least 35% of the total feedstock over the  
10 term of any sourcing agreement; and (4) captures and sequesters  
11 at least 85% of the total carbon dioxide emissions that the  
12 facility would otherwise emit.

13 "Clean coal SNG facility" means a facility that uses a  
14 gasification process to produce substitute natural gas, that  
15 sequesters at least 90% of the total carbon dioxide emissions  
16 that the facility would otherwise emit, that uses at least 90%  
17 coal as a feedstock, with all such coal having a high  
18 bituminous rank and greater than 1.7 pounds of sulfur per  
19 million btu content, and that has a valid and effective permit  
20 to construct emission sources and air pollution control  
21 equipment and approval with respect to the federal regulations  
22 for Prevention of Significant Deterioration of Air Quality  
23 (PSD) for the plant pursuant to the federal Clean Air Act;  
24 provided, however, a clean coal SNG brownfield facility shall  
25 not be a clean coal SNG facility.

26 "Commission" means the Illinois Commerce Commission.

1 "Costs incurred in connection with the development and  
2 construction of a facility" means:

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

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

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

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

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

1 "Department" means the Department of Commerce and Economic  
2 Opportunity.

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

4 "Demand-response" means measures that decrease peak  
5 electricity demand or shift demand from peak to off-peak  
6 periods.

7 "Distributed renewable energy generation device" means a  
8 device that is:

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

14 (2) interconnected at the distribution system level of  
15 either an electric utility as defined in this Section, an  
16 alternative retail electric supplier as defined in Section  
17 16-102 of the Public Utilities Act, a municipal utility as  
18 defined in Section 3-105 of the Public Utilities Act, or a  
19 rural electric cooperative as defined in Section 3-119 of  
20 the Public Utilities Act;

21 (3) located on the customer side of the customer's  
22 electric meter and is primarily used to offset that  
23 customer's electricity load or used in a community solar  
24 project; and

25 (4) limited in nameplate capacity to no more than 2,000  
26 kilowatts.

1       For an electric utility that services 3,000,000 or less  
2 customers in the State, "energy ~~Energy~~ efficiency" means  
3 measures that reduce the amount of electricity or natural gas  
4 required to achieve a given end use. "Energy efficiency" also  
5 includes measures that reduce the total Btus of electricity and  
6 natural gas needed to meet the end use or uses.

7       For an electric utility that services more than 3,000,000  
8 customers in the State, "energy efficiency" means measures that  
9 reduce the amount of electricity or natural gas required to  
10 achieve a given end use. "Energy efficiency" includes voltage  
11 optimization measures that optimize the voltage at points on  
12 the electric distribution voltage system and thereby conserve  
13 energy consumption by electric customers. "Energy efficiency"  
14 also includes measures that reduce the total Btus of  
15 electricity, natural gas, and other fuels needed to meet the  
16 end use or uses.

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

19       "Facility" means an electric generating unit or a  
20 co-generating unit that produces electricity along with  
21 related equipment necessary to connect the facility to an  
22 electric transmission or distribution system.

23       "Governmental aggregator" means one or more units of local  
24 government that individually or collectively procure  
25 electricity to serve residential retail electrical loads  
26 located within its or their jurisdiction.

1 "Local government" means a unit of local government as  
2 defined in Section 1 of Article VII of the Illinois  
3 Constitution.

4 "Municipality" means a city, village, or incorporated  
5 town.

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

11 "Project" means the planning, bidding, and construction of  
12 a facility.

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

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

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

24 "Renewable energy resources" includes energy and its  
25 associated renewable energy credit or renewable energy credits  
26 from wind, solar thermal energy, photovoltaic cells and panels,

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

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

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

20 "Sequester" means permanent storage of carbon dioxide by  
21 injecting it into a saline aquifer, a depleted gas reservoir,  
22 or an oil reservoir, directly or through an enhanced oil  
23 recovery process that may involve intermediate storage,  
24 regardless of whether these activities are conducted by a clean  
25 coal facility, a clean coal SNG facility, a clean coal SNG  
26 brownfield facility, or a party with which a clean coal

1 facility, clean coal SNG facility, or clean coal SNG brownfield  
2 facility has contracted for such purposes.

3 "Sourcing agreement" means (i) in the case of an electric  
4 utility, an agreement between the owner of a clean coal  
5 facility and such electric utility, which agreement shall have  
6 terms and conditions meeting the requirements of paragraph (3)  
7 of subsection (d) of Section 1-75, (ii) in the case of an  
8 alternative retail electric supplier, an agreement between the  
9 owner of a clean coal facility and such alternative retail  
10 electric supplier, which agreement shall have terms and  
11 conditions meeting the requirements of Section 16-115(d)(5) of  
12 the Public Utilities Act, and (iii) in case of a gas utility,  
13 an agreement between the owner of a clean coal SNG brownfield  
14 facility and the gas utility, which agreement shall have the  
15 terms and conditions meeting the requirements of subsection  
16 (h-1) of Section 9-220 of the Public Utilities Act.

17 "Substitute natural gas" or "SNG" means a gas manufactured  
18 by gasification of hydrocarbon feedstock, which is  
19 substantially interchangeable in use and distribution with  
20 conventional natural gas.

21 For an electric utility that serves 3,000,000 or less  
22 customers in the State, "total ~~Total~~ resource cost test" or  
23 "TRC test" means a standard that is met if, for an investment  
24 in energy efficiency or demand-response measures, the  
25 benefit-cost ratio is greater than one. The benefit-cost ratio  
26 is the ratio of the net present value of the total benefits of

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

18 For an electric utility that serves more than 3,000,000  
19 customers in the State, "total resource cost test" or "TRC  
20 test" means a standard that is met if, for an investment in  
21 energy efficiency or demand-response measures, the  
22 benefit-cost ratio is greater than one. The benefit-cost ratio  
23 is the ratio of the net present value of the total benefits of  
24 the program to the net present value of the total costs as  
25 calculated over the lifetime of the measures. A total resource  
26 cost test compares the sum of avoided electric utility costs,

1 representing the benefits that accrue to the system and the  
2 participant in the delivery of those efficiency measures, as  
3 well as other quantifiable societal benefits, including  
4 avoided costs associated with natural gas or other fuels, to  
5 the sum of all incremental costs of end-use measures that are  
6 implemented due to the program (including both utility and  
7 participant contributions), plus costs to administer, deliver,  
8 and evaluate each demand-side program, to quantify the net  
9 savings obtained by substituting the demand-side program for  
10 supply resources. In calculating avoided costs of power and  
11 energy that an electric utility would otherwise have had to  
12 acquire, reasonable estimates shall be included of financial  
13 costs likely to be imposed by future regulations and  
14 legislation on emissions of greenhouse gases. In discounting  
15 future societal costs and benefits for the purpose of  
16 calculating net present values, a societal discount rate based  
17 on actual, long-term Treasury bond yields should be used.  
18 Notwithstanding anything to the contrary, the benefits  
19 identified in this definition shall only be included in the TRC  
20 test if they are measurable and quantifiable, and the TRC test  
21 shall not include or take into account a calculation of market  
22 price suppression effects or demand reduction induced price  
23 effects, which is intended to be a restatement and  
24 clarification of existing law by this amendatory Act of the  
25 99th General Assembly.

26 "Zero emission credit" means a tradable credit that

1 represents the environmental attributes of one megawatt hour of  
2 energy produced from a zero emission resource.

3 "Zero emission resource" means a facility that: (1) is  
4 fueled by nuclear power; (2) does not emit any air pollution,  
5 including sulfur dioxide, nitrogen oxide, or carbon dioxide, as  
6 reported in the Generation Attribute Tracking System; and (3)  
7 is located in PJM Interconnection, LLC or the Midcontinent  
8 Independent System Operator, Inc.

9 (Source: P.A. 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-491,  
10 eff. 8-22-11; 97-616, eff. 10-26-11; 97-813, eff. 7-13-12;  
11 98-90, eff. 7-15-13.)

12 (20 ILCS 3855/1-56)

13 Sec. 1-56. Illinois Power Agency Renewable Energy  
14 Resources Fund.

15 (a) The Illinois Power Agency Renewable Energy Resources  
16 Fund is created as a special fund in the State treasury.

17 (b) Through May 31, 2018, the ~~The~~ Illinois Power Agency  
18 Renewable Energy Resources Fund shall be administered by the  
19 Agency to procure renewable energy credits in the percentages  
20 specified in this subsection (b) resources. Renewable energy  
21 credits ~~Prior to June 1, 2011, resources procured pursuant to~~  
22 ~~this Section shall be procured from facilities located in~~  
23 ~~Illinois, provided the resources are available from those~~  
24 ~~facilities. If resources are not available in Illinois, then~~  
25 ~~they shall be procured in states that adjoin Illinois. If~~

1 ~~resources are not available in Illinois or in states that~~  
2 ~~adjoin Illinois, then they may be purchased elsewhere.~~  
3 ~~Beginning June 1, 2011, resources~~ procured pursuant to this  
4 Section shall be procured from facilities located in Illinois  
5 or states that adjoin Illinois. If renewable energy credits  
6 ~~resources~~ are not available in Illinois or in states that  
7 adjoin Illinois, then they may be procured elsewhere. To the  
8 extent available, at least 75% of these renewable energy  
9 credits ~~resources~~ shall come from wind generation. Of the  
10 renewable energy credits ~~resources~~ procured pursuant to this  
11 Section at least the following specified percentages shall come  
12 from photovoltaics on the following schedule: 0.5% by June 1,  
13 2012; 1.5% by June 1, 2013; 3% by June 1, 2014; and 6% by June  
14 1, 2015 and thereafter. Of the renewable energy credits  
15 ~~resources~~ procured pursuant to this Section, at least the  
16 following percentages shall come from distributed renewable  
17 energy generation devices: 0.5% by June 1, 2013, 0.75% by June  
18 1, 2014, and 1% by June 1, 2015 and thereafter. To the extent  
19 available, half of the renewable energy credits ~~resources~~  
20 procured from distributed renewable energy generation shall  
21 come from devices of less than 25 kilowatts in nameplate  
22 capacity. Renewable energy credits ~~resources~~ procured from  
23 distributed generation devices may also count towards the  
24 required percentages for wind and solar photovoltaics.  
25 Procurement of renewable energy credits ~~resources~~ from  
26 distributed renewable energy generation devices shall be done

1 ~~on an annual basis~~ through multi-year contracts of no less than  
2 5 years, ~~and shall consist solely of renewable energy credits.~~  
3 Of the renewable energy credits from photovoltaics that are not  
4 distributed renewable energy generation devices procured  
5 pursuant to this Section, at least one-half shall come from  
6 brownfield site projects, if available. The Agency shall create  
7 application requirements for brownfield site projects that  
8 shall include, as appropriate, credit requirements for  
9 suppliers, demonstrated site control, bid bond requirements,  
10 construction completion deadlines, or other appropriate  
11 conditions to ensure confidence that selected bids will result  
12 in successful projects.

13 The Agency shall create credit requirements for suppliers  
14 of distributed renewable energy. In order to minimize the  
15 administrative burden of contracting entities, the Agency  
16 shall solicit the use of third-party organizations to aggregate  
17 distributed renewable energy into groups of no less than one  
18 megawatt in installed capacity. These third-party  
19 organizations shall administer contracts with individual  
20 distributed renewable energy generation device owners. An  
21 individual distributed renewable energy generation device  
22 owner shall have the ability to measure the output of his or  
23 her distributed renewable energy generation device.

24 (b-5) Beginning June 1, 2018, the Illinois Power Agency  
25 Renewable Energy Resources Fund shall be administered by the  
26 Agency to implement distributed generation programs, including

1 low-income distributed generation programs and low-income  
2 community distributed generation programs, and to purchase  
3 renewable energy credits from the distributed generation  
4 projects developed by these programs. The Agency shall be  
5 authorized to retain one or more consultants to develop,  
6 administer, aggregate, operate, maintain, and evaluate  
7 distributed generation projects, and the Agency shall retain  
8 the consultant or consultants in the same manner, to the extent  
9 practicable, as the Agency retains others to administer  
10 provisions of this Act, including, but not limited to, the  
11 procurement administrator. The Agency may conduct a  
12 procurement process to procure one or more third parties to  
13 implement all or a portion of the programs offered under this  
14 subsection (b-5), and electric utilities and their affiliates  
15 shall not be precluded from participating in such procurement.

16 The Agency, together with any consultants the Agency has  
17 retained, shall coordinate with Local Administrative Agencies  
18 to determine eligibility criteria for low-income distributed  
19 generation projects, provided that eligible income shall be no  
20 more than 150% of the poverty level. The Agency, in connection  
21 with Local Administrative Agencies, shall further develop the  
22 application process and participation rules that will govern  
23 low-income customers' participation in the projects.

24 The costs incurred by the Agency associated with the  
25 distributed generation programs and projects implemented  
26 pursuant to this subsection (b-5) shall be recovered from the

1 Illinois Power Agency Renewable Energy Resources Fund. Such  
2 costs shall include consultant, third-party, and aggregator  
3 costs and such other administrative costs that the Agency deems  
4 (and the Commission find) appropriate to develop, administer,  
5 install, and operate distributed generation projects.

6 The Agency shall specify in each renewable energy resources  
7 plan how the moneys available in the Illinois Power Agency  
8 Renewable Energy Resources Fund for a given planning year shall  
9 be allocated to satisfy the requirements of this subsection  
10 (b-5), provided that 75% of the funding shall be allocated to  
11 low-income distributed generation projects and programs that  
12 use photovoltaic technology, 12.5% of the funding shall be  
13 allocated to not-for-profit distributed generation programs  
14 that use photovoltaic technology, including, but not limited to  
15 community distributed generation projects, and 12.5% of the  
16 funding shall be allocated to public building distributed  
17 generation programs that use photovoltaic technology.

18 The distributed generation projects and programs  
19 implemented under this subsection (b-5) shall conform to the  
20 definition of "distributed renewable energy generation device"  
21 as set forth in Section 1-10 of this Act and shall otherwise  
22 comply with the criteria and billing requirements set forth in  
23 subsection (i) of Section 16-107.6 of the Public Utilities Act;  
24 however, the low-income community distributed generation  
25 projects described in this subsection (b-5) shall not be  
26 subject to the requirement that the participant's address must

1 be located within 5 miles of the location of the project.

2 (b-10) Upon the submission of all payments required by  
3 Section 16-115D of the Public Utilities Act, no funds shall be  
4 deposited into the Illinois Power Agency Renewable Energy  
5 Resources Fund unless directed by order of the Commission.

6 (b-15) Upon the balance of the Illinois Power Agency  
7 Renewable Energy Resources Fund falling below \$5,000, the Fund  
8 shall be terminated, and any remaining funds shall be  
9 transferred to the Low Income Home Energy Assistance Program,  
10 as authorized by the Energy Assistance Act.

11 ~~The Agency shall create credit requirements for suppliers~~  
12 ~~of distributed renewable energy. In order to minimize the~~  
13 ~~administrative burden on contracting entities, the Agency~~  
14 ~~shall solicit the use of third party organizations to aggregate~~  
15 ~~distributed renewable energy into groups of no less than one~~  
16 ~~megawatt in installed capacity. These third party~~  
17 ~~organizations shall administer contracts with individual~~  
18 ~~distributed renewable energy generation device owners. An~~  
19 ~~individual distributed renewable energy generation device~~  
20 ~~owner shall have the ability to measure the output of his or~~  
21 ~~her distributed renewable energy generation device.~~

22 (c) Pursuant to a renewable energy resources plan approved  
23 by the Commission under Section 16-111.5 of the Public  
24 Utilities Act, the Agency shall procure renewable energy  
25 credits using moneys in the Illinois Power Agency Renewable  
26 Energy Resources Fund or moneys projected to be deposited into

1 ~~the Fund resources at least once each year in conjunction with~~  
2 ~~a procurement event for electric utilities required to comply~~  
3 ~~with Section 1-75 of the Act~~ and shall, whenever possible,  
4 enter into long-term contracts ~~on an annual basis~~ for a portion  
5 of the incremental requirement for the given procurement year.

6 (d) The price paid to procure renewable energy credits  
7 using monies from the Illinois Power Agency Renewable Energy  
8 Resources Fund shall not exceed market-based benchmarks  
9 established by the procurement administrator in consultation  
10 with Commission staff, Agency staff, and the procurement  
11 monitor ~~the winning bid prices paid for like resources procured~~  
12 ~~for electric utilities required to comply with Section 1-75 of~~  
13 ~~this Act.~~

14 (e) All renewable energy credits procured using monies from  
15 the Illinois Power Agency Renewable Energy Resources Fund shall  
16 be permanently retired.

17 (f) The procurement process described in this Section is  
18 exempt from the requirements of the Illinois Procurement Code,  
19 pursuant to Section 20-10 of that Code.

20 (g) All disbursements from the Illinois Power Agency  
21 Renewable Energy Resources Fund shall be made only upon  
22 warrants of the Comptroller drawn upon the Treasurer as  
23 custodian of the Fund upon vouchers signed by the Director or  
24 by the person or persons designated by the Director for that  
25 purpose. The Comptroller is authorized to draw the warrant upon  
26 vouchers so signed. The Treasurer shall accept all warrants so

1 signed and shall be released from liability for all payments  
2 made on those warrants.

3 (h) The Illinois Power Agency Renewable Energy Resources  
4 Fund shall not be subject to sweeps, administrative charges, or  
5 chargebacks, including, but not limited to, those authorized  
6 under Section 8h of the State Finance Act, that would in any  
7 way result in the transfer of any funds from this Fund to any  
8 other fund of this State or in having any such funds utilized  
9 for any purpose other than the express purposes set forth in  
10 this Section.

11 (h-5) The Agency may assess fees to each bidder to recover  
12 the costs incurred in connection with a procurement process  
13 held pursuant to this Section.

14 (i) Supplemental procurement process.

15 (1) Within 90 days after the effective date of this  
16 amendatory Act of the 98th General Assembly, the Agency  
17 shall develop a one-time supplemental procurement plan  
18 limited to the procurement of renewable energy credits, if  
19 available, from new or existing photovoltaics, including,  
20 but not limited to, distributed photovoltaic generation.  
21 Nothing in this subsection (i) requires procurement of wind  
22 generation through the supplemental procurement.

23 Renewable energy credits procured from new  
24 photovoltaics, including, but not limited to, distributed  
25 photovoltaic generation, under this subsection (i) must be  
26 procured from devices installed by a qualified person. In

1 its supplemental procurement plan, the Agency shall  
2 establish contractually enforceable mechanisms for  
3 ensuring that the installation of new photovoltaics is  
4 performed by a qualified person.

5 For the purposes of this paragraph (1), "qualified  
6 person" means a person who performs installations of  
7 photovoltaics, including, but not limited to, distributed  
8 photovoltaic generation, and who: (A) has completed an  
9 apprenticeship as a journeyman electrician from a United  
10 States Department of Labor registered electrical  
11 apprenticeship and training program and received a  
12 certification of satisfactory completion; or (B) does not  
13 currently meet the criteria under clause (A) of this  
14 paragraph (1), but is enrolled in a United States  
15 Department of Labor registered electrical apprenticeship  
16 program, provided that the person is directly supervised by  
17 a person who meets the criteria under clause (A) of this  
18 paragraph (1); or (C) has obtained one of the following  
19 credentials in addition to attesting to satisfactory  
20 completion of at least 5 years or 8,000 hours of documented  
21 hands-on electrical experience: (i) a North American Board  
22 of Certified Energy Practitioners (NABCEP) Installer  
23 Certificate for Solar PV; (ii) an Underwriters  
24 Laboratories (UL) PV Systems Installer Certificate; (iii)  
25 an Electronics Technicians Association, International  
26 (ETAI) Level 3 PV Installer Certificate; or (iv) an

1 Associate in Applied Science degree from an Illinois  
2 Community College Board approved community college program  
3 in renewable energy or a distributed generation  
4 technology.

5 For the purposes of this paragraph (1), "directly  
6 supervised" means that there is a qualified person who  
7 meets the qualifications under clause (A) of this paragraph  
8 (1) and who is available for supervision and consultation  
9 regarding the work performed by persons under clause (B) of  
10 this paragraph (1), including a final inspection of the  
11 installation work that has been directly supervised to  
12 ensure safety and conformity with applicable codes.

13 For the purposes of this paragraph (1), "install" means  
14 the major activities and actions required to connect, in  
15 accordance with applicable building and electrical codes,  
16 the conductors, connectors, and all associated fittings,  
17 devices, power outlets, or apparatuses mounted at the  
18 premises that are directly involved in delivering energy to  
19 the premises' electrical wiring from the photovoltaics,  
20 including, but not limited to, to distributed photovoltaic  
21 generation.

22 The renewable energy credits procured pursuant to the  
23 supplemental procurement plan shall be procured using up to  
24 \$30,000,000 from the Illinois Power Agency Renewable  
25 Energy Resources Fund. The Agency shall not plan to use  
26 funds from the Illinois Power Agency Renewable Energy

1 Resources Fund in excess of the monies on deposit in such  
2 fund or projected to be deposited into such fund. The  
3 supplemental procurement plan shall ensure adequate,  
4 reliable, affordable, efficient, and environmentally  
5 sustainable renewable energy resources (including credits)  
6 at the lowest total cost over time, taking into account any  
7 benefits of price stability.

8 To the extent available, 50% of the renewable energy  
9 credits procured from distributed renewable energy  
10 generation shall come from devices of less than 25  
11 kilowatts in nameplate capacity. Procurement of renewable  
12 energy credits from distributed renewable energy  
13 generation devices shall be done through multi-year  
14 contracts of no less than 5 years. The Agency shall create  
15 credit requirements for counterparties. In order to  
16 minimize the administrative burden on contracting  
17 entities, the Agency shall solicit the use of third parties  
18 to aggregate distributed renewable energy. These third  
19 parties shall enter into and administer contracts with  
20 individual distributed renewable energy generation device  
21 owners. An individual distributed renewable energy  
22 generation device owner shall have the ability to measure  
23 the output of his or her distributed renewable energy  
24 generation device.

25 In developing the supplemental procurement plan, the  
26 Agency shall hold at least one workshop open to the public

1 within 90 days after the effective date of this amendatory  
2 Act of the 98th General Assembly and shall consider any  
3 comments made by stakeholders or the public. Upon  
4 development of the supplemental procurement plan within  
5 this 90-day period, copies of the supplemental procurement  
6 plan shall be posted and made publicly available on the  
7 Agency's and Commission's websites. All interested parties  
8 shall have 14 days following the date of posting to provide  
9 comment to the Agency on the supplemental procurement plan.  
10 All comments submitted to the Agency shall be specific,  
11 supported by data or other detailed analyses, and, if  
12 objecting to all or a portion of the supplemental  
13 procurement plan, accompanied by specific alternative  
14 wording or proposals. All comments shall be posted on the  
15 Agency's and Commission's websites. Within 14 days  
16 following the end of the 14-day review period, the Agency  
17 shall revise the supplemental procurement plan as  
18 necessary based on the comments received and file its  
19 revised supplemental procurement plan with the Commission  
20 for approval.

21 (2) Within 5 days after the filing of the supplemental  
22 procurement plan at the Commission, any person objecting to  
23 the supplemental procurement plan shall file an objection  
24 with the Commission. Within 10 days after the filing, the  
25 Commission shall determine whether a hearing is necessary.  
26 The Commission shall enter its order confirming or

1           modifying the supplemental procurement plan within 90 days  
2           after the filing of the supplemental procurement plan by  
3           the Agency.

4           (3) The Commission shall approve the supplemental  
5           procurement plan of renewable energy credits to be procured  
6           from new or existing photovoltaics, including, but not  
7           limited to, distributed photovoltaic generation, if the  
8           Commission determines that it will ensure adequate,  
9           reliable, affordable, efficient, and environmentally  
10          sustainable electric service in the form of renewable  
11          energy credits at the lowest total cost over time, taking  
12          into account any benefits of price stability.

13          (4) The supplemental procurement process under this  
14          subsection (i) shall include each of the following  
15          components:

16                (A) Procurement administrator. The Agency may  
17                retain a procurement administrator in the manner set  
18                forth in item (2) of subsection (a) of Section 1-75 of  
19                this Act to conduct the supplemental procurement or may  
20                elect to use the same procurement administrator  
21                administering the Agency's annual procurement under  
22                Section 1-75.

23                (B) Procurement monitor. The procurement monitor  
24                retained by the Commission pursuant to Section  
25                16-111.5 of the Public Utilities Act shall:

26                   (i) monitor interactions among the procurement

1 administrator and bidders and suppliers;

2 (ii) monitor and report to the Commission on  
3 the progress of the supplemental procurement  
4 process;

5 (iii) provide an independent confidential  
6 report to the Commission regarding the results of  
7 the procurement events;

8 (iv) assess compliance with the procurement  
9 plan approved by the Commission for the  
10 supplemental procurement process;

11 (v) preserve the confidentiality of supplier  
12 and bidding information in a manner consistent  
13 with all applicable laws, rules, regulations, and  
14 tariffs;

15 (vi) provide expert advice to the Commission  
16 and consult with the procurement administrator  
17 regarding issues related to procurement process  
18 design, rules, protocols, and policy-related  
19 matters;

20 (vii) consult with the procurement  
21 administrator regarding the development and use of  
22 benchmark criteria, standard form contracts,  
23 credit policies, and bid documents; and

24 (viii) perform, with respect to the  
25 supplemental procurement process, any other  
26 procurement monitor duties specifically delineated

1           within subsection (i) of this Section.

2           (C)       Solicitation,       pre-qualification,       and  
3       registration of bidders. The procurement administrator  
4       shall disseminate information to potential bidders to  
5       promote a procurement event, notify potential bidders  
6       that the procurement administrator may enter into a  
7       post-bid price negotiation with bidders that meet the  
8       applicable benchmarks, provide supply requirements,  
9       and otherwise explain the competitive procurement  
10      process. In addition to such other publication as the  
11     procurement administrator determines is appropriate,  
12     this information shall be posted on the Agency's and  
13     the Commission's websites. The procurement  
14     administrator shall also administer the  
15     prequalification process, including evaluation of  
16     credit worthiness, compliance with procurement rules,  
17     and agreement to the standard form contract developed  
18     pursuant to item (D) of this paragraph (4). The  
19     procurement administrator shall then identify and  
20     register bidders to participate in the procurement  
21     event.

22           (D) Standard contract forms and credit terms and  
23     instruments. The procurement administrator, in  
24     consultation with the Agency, the Commission, and  
25     other interested parties and subject to Commission  
26     oversight, shall develop and provide standard contract

1 forms for the supplier contracts that meet generally  
2 accepted industry practices as well as include any  
3 applicable State of Illinois terms and conditions that  
4 are required for contracts entered into by an agency of  
5 the State of Illinois. Standard credit terms and  
6 instruments that meet generally accepted industry  
7 practices shall be similarly developed. Contracts for  
8 new photovoltaics shall include a provision attesting  
9 that the supplier will use a qualified person for the  
10 installation of the device pursuant to paragraph (1) of  
11 subsection (i) of this Section. The procurement  
12 administrator shall make available to the Commission  
13 all written comments it receives on the contract forms,  
14 credit terms, or instruments. If the procurement  
15 administrator cannot reach agreement with the parties  
16 as to the contract terms and conditions, the  
17 procurement administrator must notify the Commission  
18 of any disputed terms and the Commission shall resolve  
19 the dispute. The terms of the contracts shall not be  
20 subject to negotiation by winning bidders, and the  
21 bidders must agree to the terms of the contract in  
22 advance so that winning bids are selected solely on the  
23 basis of price.

24 (E) Requests for proposals; competitive  
25 procurement process. The procurement administrator  
26 shall design and issue requests for proposals to supply

1 renewable energy credits in accordance with the  
2 supplemental procurement plan, as approved by the  
3 Commission. The requests for proposals shall set forth  
4 a procedure for sealed, binding commitment bidding  
5 with pay-as-bid settlement, and provision for  
6 selection of bids on the basis of price, provided,  
7 however, that no bid shall be accepted if it exceeds  
8 the benchmark developed pursuant to item (F) of this  
9 paragraph (4).

10 (F) Benchmarks. Benchmarks for each product to be  
11 procured shall be developed by the procurement  
12 administrator in consultation with Commission staff,  
13 the Agency, and the procurement monitor for use in this  
14 supplemental procurement.

15 (G) A plan for implementing contingencies in the  
16 event of supplier default, Commission rejection of  
17 results, or any other cause.

18 (5) Within 2 business days after opening the sealed  
19 bids, the procurement administrator shall submit a  
20 confidential report to the Commission. The report shall  
21 contain the results of the bidding for each of the products  
22 along with the procurement administrator's recommendation  
23 for the acceptance and rejection of bids based on the price  
24 benchmark criteria and other factors observed in the  
25 process. The procurement monitor also shall submit a  
26 confidential report to the Commission within 2 business

1 days after opening the sealed bids. The report shall  
2 contain the procurement monitor's assessment of bidder  
3 behavior in the process as well as an assessment of the  
4 procurement administrator's compliance with the  
5 procurement process and rules. The Commission shall review  
6 the confidential reports submitted by the procurement  
7 administrator and procurement monitor and shall accept or  
8 reject the recommendations of the procurement  
9 administrator within 2 business days after receipt of the  
10 reports.

11 (6) Within 3 business days after the Commission  
12 decision approving the results of a procurement event, the  
13 Agency shall enter into binding contractual arrangements  
14 with the winning suppliers using the standard form  
15 contracts.

16 (7) The names of the successful bidders and the average  
17 of the winning bid prices for each contract type and for  
18 each contract term shall be made available to the public  
19 within 2 days after the supplemental procurement event. The  
20 Commission, the procurement monitor, the procurement  
21 administrator, the Agency, and all participants in the  
22 procurement process shall maintain the confidentiality of  
23 all other supplier and bidding information in a manner  
24 consistent with all applicable laws, rules, regulations,  
25 and tariffs. Confidential information, including the  
26 confidential reports submitted by the procurement

1 administrator and procurement monitor pursuant to this  
2 Section, shall not be made publicly available and shall not  
3 be discoverable by any party in any proceeding, absent a  
4 compelling demonstration of need, nor shall those reports  
5 be admissible in any proceeding other than one for law  
6 enforcement purposes.

7 (8) The supplemental procurement provided in this  
8 subsection (i) shall not be subject to the requirements and  
9 limitations of subsections (c) and (d) of this Section.

10 (9) Expenses incurred in connection with the  
11 procurement process held pursuant to this Section,  
12 including, but not limited to, the cost of developing the  
13 supplemental procurement plan, the procurement  
14 administrator, procurement monitor, and the cost of the  
15 retirement of renewable energy credits purchased pursuant  
16 to the supplemental procurement shall be paid for from the  
17 Illinois Power Agency Renewable Energy Resources Fund. The  
18 Agency shall enter into an interagency agreement with the  
19 Commission to reimburse the Commission for its costs  
20 associated with the procurement monitor for the  
21 supplemental procurement process.

22 (Source: P.A. 97-616, eff. 10-26-11; 98-672, eff. 6-30-14.)

23 (20 ILCS 3855/1-75)

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

1 responsibilities:

2 (a) The Planning and Procurement Bureau shall each year,  
3 beginning in 2008, develop procurement plans and conduct  
4 competitive procurement processes in accordance with the  
5 requirements of Section 16-111.5 of the Public Utilities Act  
6 for the eligible retail customers of electric utilities that on  
7 December 31, 2005 provided electric service to at least 100,000  
8 customers in Illinois. Beginning with the planning year  
9 commencing on June 1, 2017, the Planning and Procurement Bureau  
10 shall include in such plans and processes the procurement of  
11 zero emission credits from zero emission resources pursuant to  
12 subsection (d-5) of this Section for all of the utilities'  
13 retail customers. For planning years beginning on or after June  
14 1, 2018, the Planning and Procurement Bureau shall include in  
15 such plans and processes the procurement of renewable energy  
16 resources for all of the utilities' retail customers in the  
17 amounts set forth in subsection (c) of this Section. The  
18 Planning and Procurement Bureau shall also develop procurement  
19 plans and conduct competitive procurement processes in  
20 accordance with the requirements of Section 16-111.5 of the  
21 Public Utilities 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 (1) The Agency shall each year, beginning in 2008, as  
7 needed, issue a request for qualifications for experts or  
8 expert consulting firms to develop the procurement plans in  
9 accordance with Section 16-111.5 of the Public Utilities  
10 Act. In order to qualify an expert or expert consulting  
11 firm must have:

12 (A) direct previous experience assembling  
13 large-scale power supply plans or portfolios for  
14 end-use customers;

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

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

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

24 (E) expertise in credit protocols and familiarity  
25 with contract protocols;

26 (F) adequate resources to perform and fulfill the

1 required functions and responsibilities; and

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

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

11 (A) direct previous experience administering a  
12 large-scale competitive procurement process;

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

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

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

21 (E) expertise in credit and contract protocols;

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

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

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

16                   (A) failure to satisfy qualification criteria;

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

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

20           The Agency shall remove experts or expert consulting  
21 firms from the lists within 10 days if there is a  
22 reasonable basis for an objection and provide the updated  
23 lists to the affected utilities and other interested  
24 parties. If the Agency fails to remove an expert or expert  
25 consulting firm from a list, an objecting party may seek  
26 review by the Commission within 5 days thereafter by filing

1 a petition, and the Commission shall render a ruling on the  
2 petition within 10 days. There is no right of appeal of the  
3 Commission's ruling.

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

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

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

21 (b) The experts or expert consulting firms retained by the  
22 Agency shall, as appropriate, prepare procurement plans, and  
23 conduct a competitive procurement process as prescribed in  
24 Section 16-111.5 of the Public Utilities Act, to ensure  
25 adequate, reliable, affordable, efficient, and environmentally  
26 sustainable electric service at the lowest total cost over

1 time, taking into account any benefits of price stability, for  
2 the applicable ~~eligible~~ retail customers of electric utilities  
3 that on December 31, 2005 provided electric service to at least  
4 100,000 customers in the State of Illinois, and for eligible  
5 Illinois retail customers of small multi-jurisdictional  
6 electric utilities that (i) on December 31, 2005 served less  
7 than 100,000 customers in Illinois and (ii) request a  
8 procurement plan for their Illinois jurisdictional load.

9 (c) Renewable portfolio standard.

10 (1) Through May 31, 2018, the ~~The~~ procurement plans  
11 shall include cost-effective renewable energy resources  
12 equal to a. ~~A~~ minimum percentage of each utility's actual  
13 ~~total supply to serve the load for~~ of eligible retail  
14 customers, as defined in Section 16-111.5(a) of the Public  
15 Utilities Act, as follows ~~procured for each of the~~  
16 ~~following years shall be generated from cost effective~~  
17 ~~renewable energy resources~~: at least 2% by June 1, 2008; at  
18 least 4% by June 1, 2009; at least 5% by June 1, 2010; at  
19 least 6% by June 1, 2011; at least 7% by June 1, 2012; at  
20 least 8% by June 1, 2013; at least 9% by June 1, 2014; at  
21 least 10% by June 1, 2015; at least 11.5% by June 1, 2016;  
22 and at least 13% by June 1, 2017.

23 For planning years commencing on or after June 1, 2018,  
24 the procurement plans shall include cost-effective  
25 renewable energy resources equal to a minimum percentage of  
26 each utility's actual load for retail customers whose

1 electric service has not been declared competitive  
2 pursuant to Section 16-113 of the Public Utilities Act, as  
3 follows: at least 14.5% by June 1, 2018, and increasing by  
4 at least 1.5% each year thereafter to at least 25% by June  
5 1, 2025.

6 For planning years commencing on or after June 1, 2018,  
7 the procurement plans shall include cost-effective  
8 renewable energy resources equal to the applicable portion  
9 of each utility's actual load for retail customers whose  
10 electric service has been declared competitive pursuant to  
11 Section 16-113 of the Public Utilities Act as follows: at  
12 least 14.5% by June 1, 2018, and increasing by at least  
13 1.5% each year thereafter to at least 25% by June 1, 2025.

14 Beginning June 1, 2018, the applicable portion shall be  
15 50% of each utility's actual load for retail customers  
16 whose electric service has been declared competitive  
17 pursuant to Section 16-113 of the Public Utilities Act. No  
18 later than a date set by the Agency, the applicable portion  
19 shall increase to 75% of each utility's actual load for  
20 such retail customers, and, no later than a date set by the  
21 Agency, the applicable portion shall increase to 100% of  
22 each utility's actual load for such retail customers.  
23 However, if an alternative retail electric supplier owns  
24 facilities on December 31, 2015 that generate renewable  
25 energy resources and supplies to certain customers  
26 pursuant to Section 16-115D of the Public Utilities Act,

1       then the applicable portion identified in this paragraph  
2       (1) shall be reduced for a given year by the amount of  
3       those renewable energy resources supplied to those retail  
4       customers.

5               (A) For those planning years commencing prior to  
6       June 1, 2018, the following requirements shall apply:

7               (i) To the extent that it is available, at  
8               least 75% of the renewable energy resources used to  
9               meet these standards shall come from wind  
10              generation and, beginning on June 1, 2011, at least  
11              the following percentages of the renewable energy  
12              resources used to meet these standards shall come  
13              from photovoltaics on the following schedule: 0.5%  
14              by June 1, 2012, 1.5% by June 1, 2013; 3% by June  
15              1, 2014; and 6% by June 1, of each year thereafter  
16              through May 31, 2018 ~~2015 and thereafter.~~

17              (ii) Of the renewable energy resources  
18              procured pursuant to this Section, at least the  
19              following percentages shall come from distributed  
20              renewable energy generation devices: 0.5% by June  
21              1, 2013, 0.75% by June 1, 2014, and 1% by June 1,  
22              2015 and each year thereafter through May 31, 2018.

23              To the extent available, half of the renewable  
24              energy resources procured from distributed  
25              renewable energy generation shall come from  
26              devices of less than 25 kilowatts in nameplate

1 capacity. Renewable energy resources procured from  
2 distributed generation devices may also count  
3 towards the required percentages for wind and  
4 solar photovoltaics. Procurement of renewable  
5 energy resources from distributed renewable energy  
6 generation devices shall be done ~~on an annual basis~~  
7 through multi-year contracts of no less than 5  
8 years, and shall consist solely of renewable  
9 energy credits.

10 (B) For those planning years commencing after May  
11 31, 2018 and ending May 31, 2026, the following  
12 procurement requirements shall be achieved, to the  
13 extent the resources are available:

14 (i) for each planning year, 75% of the total  
15 renewable energy credits procured shall come from  
16 wind generation, provided that such credits do not  
17 include any generating unit whose costs were being  
18 recovered through rates regulated by any state or  
19 states on January 1, 2017;

20 (ii) no later than the planning year ending May  
21 31, 2021, 5% of the total renewable energy credits  
22 procured or the equivalent amount of renewable  
23 energy credits from 1,000 megawatts of  
24 photovoltaic distributed generation nameplate  
25 capacity, whichever is greater, shall come from  
26 new photovoltaic distributed generation projects;

1           of that amount, to the extent possible, the Agency  
2           shall procure 75% from photovoltaic distributed  
3           generation projects having an installed nameplate  
4           capacity of less than 2 megawatts and shall procure  
5           25% from brownfield site projects or utility-scale  
6           photovoltaic projects that are greater than 2  
7           megawatts of installed nameplate capacity; and

8           (iii) no later than the planning year ending  
9           May 31, 2026, 6% of the total renewable energy  
10           credits procured or the equivalent amount of  
11           renewable energy credits from 1,500 megawatts of  
12           photovoltaic distributed generation nameplate  
13           capacity, whichever is greater, shall come from  
14           new photovoltaic distributed generation projects;  
15           of that amount, to the extent possible, the Agency  
16           shall procure 75% from photovoltaic distributed  
17           generation projects having an installed nameplate  
18           capacity of less than 2 megawatts and shall procure  
19           25% from brownfield site projects or utility-scale  
20           photovoltaic projects that are greater than 2  
21           megawatts of installed nameplate capacity.

22           (C) The Agency may procure contracts of at least 15  
23           years in length for the resources procured under items  
24           (ii) and (iii) of subparagraph (B) of paragraph (1) of  
25           this subsection (c), for which payment shall be made in  
26           full by the contracting utilities at such time that the

1           facility producing the renewable energy credits is  
2           interconnected at the distribution system level of the  
3           utility and energized.

4           (D) The Agency shall create credit requirements  
5           for suppliers of distributed renewable energy. In  
6           order to minimize the administrative burden on  
7           contracting entities, the Agency shall solicit the use  
8           of third-party organizations to aggregate distributed  
9           renewable energy into groups of no less than one  
10          megawatt in installed capacity. These third-party  
11          organizations shall administer contracts with  
12          individual distributed renewable energy generation  
13          device owners. An individual distributed renewable  
14          energy generation device owner shall have the ability  
15          to measure the output of his or her distributed  
16          renewable energy generation device.

17          (E) For purposes of this subsection (c),  
18          "cost-effective" means that the costs of procuring  
19          renewable energy resources do not cause the limit  
20          stated in paragraph (2) of this subsection (c) to be  
21          exceeded and do not exceed benchmarks based on market  
22          prices for renewable energy resources in the region,  
23          which shall be developed by the procurement  
24          administrator, in consultation with the Commission  
25          staff, Agency staff, and the procurement monitor and  
26          shall be subject to Commission review and approval. A

1           utility shall be deemed to have fully complied with the  
2           requirements of this subsection (c) by entering into  
3           contracts to procure the applicable percentage of  
4           renewable energy resources by June 1 of each year.

5           (F) Renewable energy credits from photovoltaic  
6           distributed generation that are the subject of items  
7           (ii) and (iii) of subparagraph (B) of paragraph (1) of  
8           this subsection (c) shall be purchased before any other  
9           renewable energy credits are purchased until such time  
10           as the targets specified therein have been achieved.

11           (2) For purposes of this subsection (c), the required  
12 procurement of cost-effective renewable energy resources  
13 for a particular year commencing prior to June 1, 2018  
14 shall be measured as a percentage of the actual amount of  
15 electricity (megawatt-hours) supplied by the electric  
16 utility to eligible retail customers in the planning year  
17 ending immediately prior to the procurement, and, for  
18 planning years commencing on and after June 1, 2018, the  
19 required procurement of cost-effective renewable energy  
20 resources for a particular year shall be measured as a  
21 percentage of the actual amount of electricity  
22 (megawatt-hours) delivered by the electric utility in the  
23 planning year ending immediately prior to the procurement,  
24 to all retail customers in its service territory. For  
25 purposes of this subsection (c), the amount paid per  
26 kilowatthour means the total amount paid for electric

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

6 Notwithstanding the requirements of this subsection  
7 (c), the total of renewable energy resources procured  
8 pursuant to the procurement plan for any single year shall  
9 be subject to the limitations of this paragraph (2). Such  
10 procurement shall be reduced for all retail customers based  
11 on the ~~reduced by an~~ amount necessary to limit the annual  
12 estimated average net increase due to the costs of these  
13 resources included in the amounts paid by eligible retail  
14 customers in connection with electric service to:

15 ~~(A) in 2008, no more than 0.5% of the amount paid~~  
16 ~~per kilowatthour by those customers during the year~~  
17 ~~ending May 31, 2007;~~

18 ~~(B) in 2009, the greater of an additional 0.5% of~~  
19 ~~the amount paid per kilowatthour by those customers~~  
20 ~~during the year ending May 31, 2008 or 1% of the amount~~  
21 ~~paid per kilowatthour by those customers during the~~  
22 ~~year ending May 31, 2007;~~

23 ~~(C) in 2010, the greater of an additional 0.5% of~~  
24 ~~the amount paid per kilowatthour by those customers~~  
25 ~~during the year ending May 31, 2009 or 1.5% of the~~  
26 ~~amount paid per kilowatthour by those customers during~~

1 ~~the year ending May 31, 2007;~~

2 ~~(D) in 2011, the greater of an additional 0.5% of~~  
3 ~~the amount paid per kilowatthour by those customers~~  
4 ~~during the year ending May 31, 2010 or 2% of the amount~~  
5 ~~paid per kilowatthour by those customers during the~~  
6 ~~year ending May 31, 2007; and~~

7 ~~(E) thereafter, the amount of renewable energy~~  
8 ~~resources procured pursuant to the procurement plan~~  
9 ~~for any single year shall be reduced by an amount~~  
10 ~~necessary to limit the estimated average net increase~~  
11 ~~due to the cost of these resources included in the~~  
12 ~~amounts paid by eligible retail customers in~~  
13 ~~connection with electric service to no more than the~~  
14 ~~greater of 2.015% of the amount paid per kilowatthour~~  
15 ~~by those customers during the year ending May 31, 2007~~  
16 ~~or the incremental amount per kilowatthour paid for~~  
17 ~~these resources in 2011. To arrive at a maximum dollar~~  
18 ~~amount of renewable energy resources to be procured for~~  
19 ~~the particular planning year, the resulting per~~  
20 ~~kilowatthour amount shall be applied to the actual~~  
21 ~~amount of kilowatthours of electricity delivered by~~  
22 ~~the electric utility in the planning year immediately~~  
23 ~~prior to the procurement to all retail customers in its~~  
24 ~~service territory. The calculations required by this~~  
25 ~~paragraph (2) shall be made only once for each planning~~  
26 ~~year at the time that the renewable energy resources~~

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

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

17           (3) Through June 1, 2011, renewable energy resources  
18           shall be counted for the purpose of meeting the renewable  
19           energy standards set forth in paragraph (1) of this  
20           subsection (c) only if they are generated from facilities  
21           located in the State, provided that cost-effective  
22           renewable energy resources are available from those  
23           facilities. If those cost-effective resources are not  
24           available in Illinois, they shall be procured in states  
25           that adjoin Illinois and may be counted towards compliance.  
26           If those cost-effective resources are not available in

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

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

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

1 Public Utilities Act the amounts collected under the  
2 alternative compliance payment rate or rates for the prior  
3 year ending May 31. Notwithstanding any limitation on the  
4 procurement of renewable energy resources imposed by item  
5 (2) of this subsection (c), the Agency shall increase its  
6 spending on the purchase of renewable energy resources to  
7 be procured by the electric utility for the next plan year  
8 by an amount equal to the amounts collected by the utility  
9 under the alternative compliance payment rate or rates in  
10 the prior year ending May 31. Beginning April 1, 2012, and  
11 each year thereafter, the Agency shall prepare a public  
12 report for the General Assembly and Illinois Commerce  
13 Commission that shall include, but not necessarily be  
14 limited to:

15 (A) a comparison of the costs associated with the  
16 Agency's procurement of renewable energy resources to  
17 (1) the Agency's costs associated with electricity  
18 generated by other types of generation facilities and  
19 (2) the benefits associated with the Agency's  
20 procurement of renewable energy resources; and

21 (B) an analysis of the rate impacts associated with  
22 the Illinois Power Agency's procurement of renewable  
23 resources, including, but not limited to, any  
24 long-term contracts, on the eligible retail customers  
25 of electric utilities.

26 The analysis shall include the Agency's estimate of the

1 total dollar impact that the Agency's procurement of  
2 renewable resources has had on the annual electricity bills  
3 of the customer classes that comprise each eligible retail  
4 customer class taking service from an electric utility. The  
5 Agency's report shall also analyze how the operation of the  
6 alternative compliance payment mechanism, any long-term  
7 contracts, or other aspects of the applicable renewable  
8 portfolio standards impacts the rates of customers of  
9 alternative retail electric suppliers.

10 (6) Beginning with the planning year commencing June 1,  
11 2018, the procurement plan shall include a renewable energy  
12 resources plan for the procurement of renewable energy  
13 credits in accordance with the requirements of Section 1-56  
14 of this Act and renewable energy resources in accordance  
15 with the requirements of this Section. The renewable energy  
16 resources plan shall ensure adequate, reliable,  
17 affordable, efficient, and environmentally sustainable  
18 renewable energy resources at the lowest total cost over  
19 time, taking into account any benefits of price stability.  
20 The renewable energy resources plan shall also include the  
21 items set forth in subparagraphs (i) through (iii) of  
22 paragraph (5) of subsection (b) of Section 16-111.5 of the  
23 Public Utilities Act.

24 Nothing in this paragraph (6) is intended to alter any  
25 of the limitations or conditions otherwise imposed on the  
26 purchase of renewable energy credits or renewable energy

1 resources by any other section of this Act.

2 (7) The electric utility shall be entitled to recover  
3 all of its costs associated with the procurement of  
4 renewable energy resources pursuant to this Section  
5 through an automatic adjustment clause tariff in  
6 accordance with subsection (k) of Section 16-108 of the  
7 Public Utilities Act. All procurement of renewable energy  
8 resources in the procurement plans of the electric  
9 utilities shall be pursuant to a competitive bidding  
10 process and shall be approved by the Commission pursuant to  
11 Section 16-111.5 of the Public Utilities Act.

12 (d) Clean coal portfolio standard.

13 (1) The procurement plans shall include electricity  
14 generated using clean coal. Each utility shall enter into  
15 one or more sourcing agreements with the initial clean coal  
16 facility, as provided in paragraph (3) of this subsection  
17 (d), covering electricity generated by the initial clean  
18 coal facility representing at least 5% of each utility's  
19 total supply to serve the load of eligible retail customers  
20 in 2015 and each year thereafter, as described in paragraph  
21 (3) of this subsection (d), subject to the limits specified  
22 in paragraph (2) of this subsection (d). It is the goal of  
23 the State that by January 1, 2025, 25% of the electricity  
24 used in the State shall be generated by cost-effective  
25 clean coal facilities. For purposes of this subsection (d),  
26 "cost-effective" means that the expenditures pursuant to

1 such sourcing agreements do not cause the limit stated in  
2 paragraph (2) of this subsection (d) to be exceeded and do  
3 not exceed cost-based benchmarks, which shall be developed  
4 to assess all expenditures pursuant to such sourcing  
5 agreements covering electricity generated by clean coal  
6 facilities, other than the initial clean coal facility, by  
7 the procurement administrator, in consultation with the  
8 Commission staff, Agency staff, and the procurement  
9 monitor and shall be subject to Commission review and  
10 approval.

11 A utility party to a sourcing agreement shall  
12 immediately retire any emission credits that it receives in  
13 connection with the electricity covered by such agreement.

14 Utilities shall maintain adequate records documenting  
15 the purchases under the sourcing agreement to comply with  
16 this subsection (d) and shall file an accounting with the  
17 load forecast that must be filed with the Agency by July 15  
18 of each year, in accordance with subsection (d) of Section  
19 16-111.5 of the Public Utilities Act.

20 A utility shall be deemed to have complied with the  
21 clean coal portfolio standard specified in this subsection  
22 (d) if the utility enters into a sourcing agreement as  
23 required by this subsection (d).

24 (2) For purposes of this subsection (d), the required  
25 execution of sourcing agreements with the initial clean  
26 coal facility for a particular year shall be measured as a

1 percentage of the actual amount of electricity  
2 (megawatt-hours) supplied by the electric utility to  
3 eligible retail customers in the planning year ending  
4 immediately prior to the agreement's execution. For  
5 purposes of this subsection (d), the amount paid per  
6 kilowatthour means the total amount paid for electric  
7 service expressed on a per kilowatthour basis. For purposes  
8 of this subsection (d), the total amount paid for electric  
9 service includes without limitation amounts paid for  
10 supply, transmission, distribution, surcharges and add-on  
11 taxes.

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

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

23 (B) in 2011, the greater of an additional 0.5% of  
24 the amount paid per kilowatthour by those customers  
25 during the year ending May 31, 2010 or 1% of the amount  
26 paid per kilowatthour by those customers during the

1 year ending May 31, 2009;

2 (C) in 2012, the greater of an additional 0.5% of  
3 the amount paid per kilowatthour by those customers  
4 during the year ending May 31, 2011 or 1.5% of the  
5 amount paid per kilowatthour by those customers during  
6 the year ending May 31, 2009;

7 (D) in 2013, the greater of an additional 0.5% of  
8 the amount paid per kilowatthour by those customers  
9 during the year ending May 31, 2012 or 2% of the amount  
10 paid per kilowatthour by those customers during the  
11 year ending May 31, 2009; and

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

25 No later than June 30, 2015, the Commission shall  
26 review the limitation on the total amount paid under

1 sourcing agreements, if any, with clean coal facilities  
2 pursuant to this subsection (d) and report to the General  
3 Assembly its findings as to whether that limitation unduly  
4 constrains the amount of electricity generated by  
5 cost-effective clean coal facilities that is covered by  
6 sourcing agreements.

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

1 for electricity produced by the initial clean coal facility  
2 shall include:

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

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

16 (ii) provide that all miscellaneous net  
17 revenue, including but not limited to net revenue  
18 from the sale of emission allowances, if any,  
19 substitute natural gas, if any, grants or other  
20 support provided by the State of Illinois or the  
21 United States Government, firm transmission  
22 rights, if any, by-products produced by the  
23 facility, energy or capacity derived from the  
24 facility and not covered by a sourcing agreement  
25 pursuant to paragraph (3) of this subsection (d) or  
26 item (5) of subsection (d) of Section 16-115 of the

1 Public Utilities Act, whether generated from the  
2 synthesis gas derived from coal, from SNG, or from  
3 natural gas, shall be credited against the revenue  
4 requirement for this initial clean coal facility;

5 (B) power purchase provisions, which shall:

6 (i) provide that the utility party to such  
7 sourcing agreement shall pay the contract price  
8 for electricity delivered under such sourcing  
9 agreement;

10 (ii) require delivery of electricity to the  
11 regional transmission organization market of the  
12 utility that is party to such sourcing agreement;

13 (iii) require the utility party to such  
14 sourcing agreement to buy from the initial clean  
15 coal facility in each hour an amount of energy  
16 equal to all clean coal energy made available from  
17 the initial clean coal facility during such hour  
18 times a fraction, the numerator of which is such  
19 utility's retail market sales of electricity  
20 (expressed in kilowatthours sold) in the State  
21 during the prior calendar month and the  
22 denominator of which is the total retail market  
23 sales of electricity (expressed in kilowatthours  
24 sold) in the State by utilities during such prior  
25 month and the sales of electricity (expressed in  
26 kilowatthours sold) in the State by alternative

1 retail electric suppliers during such prior month  
2 that are subject to the requirements of this  
3 subsection (d) and paragraph (5) of subsection (d)  
4 of Section 16-115 of the Public Utilities Act,  
5 provided that the amount purchased by the utility  
6 in any year will be limited by paragraph (2) of  
7 this subsection (d); and

8 (iv) be considered pre-existing contracts in  
9 such utility's procurement plans for eligible  
10 retail customers;

11 (C) contract for differences provisions, which  
12 shall:

13 (i) require the utility party to such sourcing  
14 agreement to contract with the initial clean coal  
15 facility in each hour with respect to an amount of  
16 energy equal to all clean coal energy made  
17 available from the initial clean coal facility  
18 during such hour times a fraction, the numerator of  
19 which is such utility's retail market sales of  
20 electricity (expressed in kilowatthours sold) in  
21 the utility's service territory in the State  
22 during the prior calendar month and the  
23 denominator of which is the total retail market  
24 sales of electricity (expressed in kilowatthours  
25 sold) in the State by utilities during such prior  
26 month and the sales of electricity (expressed in

1 kilowatthours sold) in the State by alternative  
2 retail electric suppliers during such prior month  
3 that are subject to the requirements of this  
4 subsection (d) and paragraph (5) of subsection (d)  
5 of Section 16-115 of the Public Utilities Act,  
6 provided that the amount paid by the utility in any  
7 year will be limited by paragraph (2) of this  
8 subsection (d);

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

1 (iii) not require the utility to take physical  
2 delivery of the electricity produced by the  
3 facility;

4 (D) general provisions, which shall:

5 (i) specify a term of no more than 30 years,  
6 commencing on the commercial operation date of the  
7 facility;

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

16 (iii) provide that all costs associated with  
17 the initial clean coal facility will be  
18 periodically reported to the Federal Energy  
19 Regulatory Commission and to purchasers in  
20 accordance with applicable laws governing  
21 cost-based wholesale power contracts;

22 (iv) permit the Illinois Power Agency to  
23 assume ownership of the initial clean coal  
24 facility, without monetary consideration and  
25 otherwise on reasonable terms acceptable to the  
26 Agency, if the Agency so requests no less than 3

1 years prior to the end of the stated contract term;

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

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

1           (vi) include limits on, and accordingly  
2 provide for modification of, the amount the  
3 utility is required to source under the sourcing  
4 agreement consistent with paragraph (2) of this  
5 subsection (d);

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

21           (viii) limit the utility's obligation to such  
22 amount as the utility is allowed to recover through  
23 tariffs filed with the Commission, provided that  
24 neither the clean coal facility nor the utility  
25 waives any right to assert federal pre-emption or  
26 any other argument in response to a purported

1 disallowance of recovery costs;

2 (ix) limit the utility's or alternative retail  
3 electric supplier's obligation to incur any  
4 liability until such time as the facility is in  
5 commercial operation and generating power and  
6 energy and such power and energy is being delivered  
7 to the facility busbar;

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

15 (xi) append documentation showing that the  
16 formula rate and contract, insofar as they relate  
17 to the power purchase provisions, have been  
18 approved by the Federal Energy Regulatory  
19 Commission pursuant to Section 205 of the Federal  
20 Power Act;

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

1                   (xiii) conform with customary lender  
2 requirements in power purchase agreements used as  
3 the basis for financing non-utility generators.

4           (4) Effective date of sourcing agreements with the  
5 initial clean coal facility.

6           Any proposed sourcing agreement with the initial clean  
7 coal facility shall not become effective unless the  
8 following reports are prepared and submitted and  
9 authorizations and approvals obtained:

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

23           (ii) Commission report. Within 6 months following  
24 receipt of the facility cost report, the Commission, in  
25 consultation with the Agency, shall submit a report to  
26 the General Assembly setting forth its analysis of the

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

19 (iii) General Assembly approval. The proposed  
20 sourcing agreements shall not take effect unless,  
21 based on the facility cost report and the Commission's  
22 report, the General Assembly enacts authorizing  
23 legislation approving (A) the projected price, stated  
24 in cents per kilowatthour, to be charged for  
25 electricity generated by the initial clean coal  
26 facility, (B) the projected impact on residential and

1 small business customers' bills over the life of the  
2 sourcing agreements, and (C) the maximum allowable  
3 return on equity for the project; and

4 (iv) Commission review. If the General Assembly  
5 enacts authorizing legislation pursuant to  
6 subparagraph (iii) approving a sourcing agreement, the  
7 Commission shall, within 90 days of such enactment,  
8 complete a review of such sourcing agreement. During  
9 such time period, the Commission shall implement any  
10 directive of the General Assembly, resolve any  
11 disputes between the parties to the sourcing agreement  
12 concerning the terms of such agreement, approve the  
13 form of such agreement, and issue an order finding that  
14 the sourcing agreement is prudent and reasonable.

15 The facility cost report shall be prepared as follows:

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

24 (i) an estimate of the capital cost of the core  
25 plant based on one or more front end engineering  
26 and design studies for the gasification island and

1 related facilities. The core plant shall include  
2 all civil, structural, mechanical, electrical,  
3 control, and safety systems.

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

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

22 (B) The front end engineering and design study for  
23 the gasification island and the cost study for the  
24 balance of plant shall include sufficient design work  
25 to permit quantification of major categories of  
26 materials, commodities and labor hours, and receipt of

1 quotes from vendors of major equipment required to  
2 construct and operate the clean coal facility.

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

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

1           (D) The facility cost report shall also include an  
2           analysis of the initial clean coal facility's ability  
3           to deliver power and energy into the applicable  
4           regional transmission organization markets and an  
5           analysis of the expected capacity factor for the  
6           initial clean coal facility.

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

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

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

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

22 (d-5) Zero emission standard.

23 (1) Beginning with the planning year commencing on June  
24 1, 2017, the procurement plans shall include  
25 cost-effective zero emission credits from zero emission  
26 resources in an amount equal to 16% of the actual amount of

1       electricity delivered by each electric utility to retail  
2       customers in the State during calendar year 2014.  
3       Notwithstanding whether a procurement event is conducted  
4       pursuant to Section 16-111.5 of the Public Utilities Act,  
5       the Agency and Commission shall immediately initiate an  
6       initial procurement process upon the effective date of this  
7       amendatory Act of the 99th General Assembly, which shall  
8       procure cost-effective zero emission credits from zero  
9       emission resources, in an amount equal to, for each  
10       planning year, 16% of each electric utility's annual retail  
11       sales of electricity to retail customers in the State  
12       during calendar year 2014.

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

15               (A) To assist the Agency in preparing its proposed  
16               initial procurement plan, those zero emission  
17               resources that intend to participate in the  
18               procurement shall submit to the Agency the following  
19               information for each zero emission resource on or  
20               before the date established by the Agency:

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

23                       (ii) the projected zero emission credits to be  
24                       generated over the remaining useful life of the  
25                       zero emission resource;

26                       (iii) the annual zero emission resource cost

1           projections, expressed on a per megawatthour  
2           basis, over the next 4 planning years, which shall  
3           include the following: operation and maintenance  
4           expenses; fully allocated overhead costs, which  
5           shall be allocated using the methodology developed  
6           by the Institute for Nuclear Power Operations;  
7           fuel expenditures; non-fuel capital expenditures;  
8           spent fuel expenditures; a return on working  
9           capital; and any other costs necessary for  
10           continued operations, provided that "necessary"  
11           means, for purposes of this item (iii), that the  
12           costs could reasonably be avoided only by ceasing  
13           operations of the zero emission resource. In  
14           addition, those cost projections shall be adjusted  
15           to reflect operational risks that include, but are  
16           not limited to, operational cost risk, which is the  
17           risk that operating costs will be higher than  
18           reasonably anticipated, and capacity factor risk,  
19           which is the risk that per megawatthour costs will  
20           be higher than anticipated because of a lower than  
21           expected capacity factor. The cost projections  
22           shall be further adjusted by a per megawatthour  
23           facility adjustment to reflect market risks that  
24           include, but are not limited to, liquidated  
25           damages risk, which is the risk of a forced outage  
26           and the associated costs of covering contractual

1           obligations; volatility risk, which is the risk  
2           that output from the resource may not be able to be  
3           sold at the same forward prices used as set forth  
4           in this paragraph (1); and basis risk, which is the  
5           risk that the difference between the nodal energy  
6           price for the resource and the associated  
7           zone-wide energy price will exceed the values  
8           calculated as set forth in this paragraph (1); and

9           (iv) a commitment to continue operating, for  
10          the duration of the contract or contracts executed  
11          pursuant to the initial procurement held under  
12          this subsection (d-5), the zero emission resource  
13          that produces the zero emission credits to be  
14          procured in the procurement.

15          (B) Zero emission resources that bid into the  
16          initial procurement must commit to deliver all zero  
17          emission credits from the zero emission resource  
18          during the remaining useful life of the resource, and  
19          each winning zero emission resource shall be  
20          compensated for each planning year in an amount that  
21          equals the difference between the weighted average of  
22          all zero emission resources' average annual zero  
23          emission resource cost, expressed on a price per  
24          megawatthour basis, for the applicable planning year  
25          and each zero emission resource's projected energy  
26          revenues and projected capacity revenues for the

1           applicable planning year. However, if the difference  
2           is a sum that is less than zero, then no compensation  
3           shall be provided to any entity. The components of this  
4           calculation are defined as follows:

5                   (i) Weighted average of all zero emission  
6                   resources' average annual zero emission resource  
7                   cost: during the first 4 planning years, the  
8                   weighted average of all zero emission resources'  
9                   average annual zero emission resource cost shall  
10                   be \$42 per megawatthour. Thereafter, for each  
11                   applicable planning year, the Agency shall  
12                   calculate for each zero emission resource the  
13                   average annual zero emission resource cost over  
14                   the consecutive 4-year planning period ending  
15                   immediately prior to the applicable planning year,  
16                   and the average annual zero emission resource cost  
17                   over the consecutive 4-year planning period ending  
18                   on May 31 of the applicable planning year. The  
19                   Agency shall use the 4-year cost projections  
20                   submitted by zero emission resources pursuant to  
21                   subparagraph (D) of this paragraph (1), and the  
22                   averages calculated by the Agency shall be  
23                   expressed on a price per megawatthour basis for the  
24                   applicable year.

25                   The weighted average of all zero emission  
26                   resources' average annual zero emission resource

1           cost for planning years commencing after the first  
2           4 planning years shall be calculated using the  
3           following formula: the weighted average of all  
4           zero emission resources' average annual zero  
5           emission resource cost, expressed on a price per  
6           megawatt hour basis, established by the Commission  
7           for the planning year immediately preceding the  
8           applicable planning year multiplied by a ratio  
9           where the numerator is the weighted average of all  
10           zero emission resources' average annual zero  
11           emission resource costs over the consecutive  
12           4-year planning period ending on May 31 of the  
13           applicable planning year and the denominator is  
14           the weighted average of all zero emission  
15           resources' average annual zero emission resource  
16           costs over the consecutive 4-year planning period  
17           ending immediately prior to the applicable  
18           planning year. The submissions and calculations  
19           required by this item (i) shall be made according  
20           to the schedule set forth in subparagraph (D) of  
21           this paragraph (1).

22           (ii) Projected energy revenues: the zero  
23           emission resource shall calculate projected energy  
24           revenues for the applicable planning year based on  
25           actual forward market prices as published by the  
26           Intercontinental Exchange, which shall be

1           calculated as the average forward market energy  
2           price at the PJM Interconnection, LLC Northern  
3           Illinois Hub for all trade dates during the  
4           immediately preceding 12-month period that began  
5           on April 1 and ended March 31 and adjusted to  
6           reflect the historic basis price difference  
7           between the Northern Illinois Hub and the average  
8           day ahead price for energy during that period at  
9           the generating facility bus that is producing the  
10          credit.

11           (iii) Projected capacity revenues: for the  
12          planning years commencing June 1, 2017, June 1,  
13          2018, and June 1, 2019, the zero emission resource  
14          shall calculate projected capacity revenues for  
15          the applicable planning year based on  
16          unit-specific market prices determined by the  
17          applicable regional transmission organization's  
18          procurement process, PJM Interconnection LLC or  
19          the Midcontinent Independent System Operator,  
20          Inc.; for planning years commencing after May 31,  
21          2020, the zero emission resource shall calculate  
22          projected capacity revenues for the applicable  
23          planning year based on the zonal forward market  
24          prices determined by the applicable regional  
25          transmission organization's procurement process,  
26          PJM Interconnection LLC or the Midcontinent

1           Independent System Operator, Inc.

2           (C) No later than 45 days after the effective date  
3 of this amendatory Act of the 99th General Assembly,  
4 the Agency shall submit to the Commission the proposed  
5 initial procurement plan. The plan shall be consistent  
6 with the provisions of this paragraph (1) and shall  
7 provide that winning bids shall be selected based on  
8 public interest criteria that include minimizing  
9 carbon dioxide emissions that result from electricity  
10 consumed in Illinois and minimizing sulfur dioxide,  
11 nitrogen oxide, and particulate matter emissions that  
12 adversely affect the citizens of this State. In  
13 particular, the selection of winning bids shall take  
14 into account the incremental environmental and  
15 reliability benefits resulting from the procurement,  
16 including any existing environmental and reliability  
17 benefits that are preserved by the procurement and  
18 would cease to exist if the procurement were not held.  
19 The Commission shall, after notice and hearing, but no  
20 later than 30 days after the Agency submits its plan,  
21 approve the plan or approve with modification. The  
22 Agency shall conduct the request for proposals process  
23 as soon as reasonably practicable after the effective  
24 date of this amendatory Act of the 99th General  
25 Assembly, and each utility shall enter into binding  
26 contractual arrangements with the winning suppliers.

1           The procurement shall be completed no later than May  
2           31, 2017. Notwithstanding the provisions of this  
3           subparagraph (C), the Agency and Commission shall  
4           conduct the procurement and plan approval processes  
5           required by this subsection (d-5) in conjunction with  
6           the procurement and plan approval processes required  
7           by subsection (c) of this Section and Section 16-111.5  
8           of the Public Utilities Act, to the extent practicable.

9           Following the initial procurement event described  
10          in this paragraph (1), the Agency and Commission shall  
11          initiate additional procurement processes, as  
12          necessary, to replace any zero emission credits that  
13          were not delivered due to a supplier default or in the  
14          event that additional zero emission credits must be  
15          procured. Any such processes shall be conducted  
16          regardless of whether a procurement event is conducted  
17          pursuant to Section 16-111.5 of the Public Utilities  
18          Act. Each utility shall enter into binding contractual  
19          arrangements with the winning suppliers.

20          (D) Following the initial procurement event  
21          described in this paragraph (1), each zero emission  
22          resource that has executed a contract to deliver zero  
23          emission credits pursuant to this paragraph (1) shall  
24          submit its updated zero emission resource cost  
25          projections for the next 4 planning years, and  
26          projected energy revenues and projected capacity

1 revenues for the next planning years, as those costs  
2 and revenues are defined in subparagraphs (A) and (B)  
3 of this paragraph (1), no later than April 10, 2018 and  
4 each April 10 thereafter. Consistent with subparagraph  
5 (B), the Agency shall determine the weighted average of  
6 all zero emission resources' average annual zero  
7 emission resource cost for the planning year that  
8 commences 4 years after the current planning year, on a  
9 per megawatthour basis, and shall calculate the  
10 payments to be made under each contract for the next  
11 planning year based on the updated projected energy  
12 revenues and capacity revenues submitted by the zero  
13 emission resources. The Agency shall publish the  
14 weighted average of all zero emission resources'  
15 average annual zero emission resource cost and payment  
16 calculations no later than May 25, 2018 and every May  
17 25 thereafter.

18 (E) The contracts executed pursuant to this  
19 subsection (d-5) shall provide that the Agency,  
20 Commission, or zero emission resource may terminate a  
21 contract or contracts to be effective on June 1 of a  
22 given planning year, provided that notice of such  
23 termination must be made at least 4 years prior to the  
24 effective date of such termination and the earliest  
25 date on which a contract termination may take effect  
26 under this subparagraph (C) is the earlier of June 1,

1           2023 or 2 years after the State has adopted and  
2           implemented a plan pursuant to the provisions of  
3           Section 111(d) of the federal Clean Air Act, 42 U.S. C.  
4           7411(d), as amended.

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

11                   (i) A zero emission resource 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 resource  
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           resource 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 resource  
6           during the duration of the event.

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

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

5                   (G) For purposes of this subsection (d-5),  
6                   "cost-effective" means that the costs of procuring  
7                   zero emission credits do not cause the limit stated in  
8                   paragraph (2) of this subsection (d-5) to be exceeded.

9                   (2) For purposes of this subsection (d-5), the required  
10                   procurement of cost-effective zero emission credits for a  
11                   particular period shall be measured as a percentage of the  
12                   actual amount of electricity (megawatthours) delivered by  
13                   the electric utility to all retail customers in the  
14                   planning year ending immediately prior to the procurement,  
15                   as incorporated in the procurement plan approved by the  
16                   Commission. For purposes of this subsection (d-5), the  
17                   amount paid per kilowatthour means the total amount paid  
18                   for electric service expressed on a per kilowatthour basis.  
19                   For purposes of this subsection (d-5), the total amount  
20                   paid for electric service includes, without limitation,  
21                   amounts paid for supply, transmission, distribution,  
22                   surcharges, and add-on taxes.

23                   Notwithstanding the requirements of this subsection  
24                   (d-5), the total of zero emission credits procured pursuant  
25                   to a procurement plan shall be subject to the limitations  
26                   of this paragraph (2). For each 4-year period, the

1 procurement shall be reduced for all retail customers based  
2 on the amount necessary to limit the annual estimated  
3 average net increase over each period due to the costs of  
4 these credits included in the amounts paid by eligible  
5 retail customers in connection with electric service to no  
6 more than 2.015% of the amount paid per kilowatthour by  
7 eligible retail customers during the year ending May 31,  
8 2009. The result of this computation shall apply to and  
9 reduce the procurement for all retail customers, and all  
10 those customers shall pay the same single, uniform cents  
11 per kilowatthour charge pursuant to subsection (k) of  
12 Section 16-108 of the Public Utilities Act. To arrive at a  
13 maximum dollar amount of zero emission credits to be  
14 procured for the particular planning year, the resulting  
15 per kilowatthour amount shall be applied to the actual  
16 amount of kilowatthours of electricity delivered by the  
17 electric utility in the planning year immediately prior to  
18 the procurement, to all retail customers in its service  
19 territory. The calculations required by this paragraph (2)  
20 shall be made only once for each procurement plan year.  
21 Once the determination as to the amount of zero emission  
22 credits to procure is made based on the calculations set  
23 forth in this paragraph (2), no subsequent rate impact  
24 determinations shall be made and no adjustments to those  
25 contract amounts shall be allowed. All costs incurred under  
26 those contracts and in implementing this subsection (d-5)

1       shall be recovered by the electric utility as provided in  
2       this Section.

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

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

12       (4) The electric utility shall retire all zero emission  
13       credits used to comply with the requirements of this  
14       subsection (d-5).

15       (5) Electric utilities shall be entitled to recover all  
16       of the costs associated with the procurement of zero  
17       emission credits through an automatic adjustment clause  
18       tariff in accordance with subsection (k) of Section 16-108  
19       of the Public Utilities Act.

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 procurement  
6 process.

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

19 (Source: P.A. 97-325, eff. 8-12-11; 97-616, eff. 10-26-11;  
20 97-618, eff. 10-26-11; 97-658, eff. 1-13-12; 97-813, eff.  
21 7-13-12; 98-463, eff. 8-16-13.)

22 Section 10. The Public Utilities Act is amended by changing  
23 Sections 8-103, 8-104, 16-107, 16-107.5, 16-108, 16-111.5,  
24 16-111.5B, 16-111.7, 16-115D, and 16-127 and by adding Sections  
25 8-103B, 9-105, 9-107, 16-103.3, 16-107.6, 16-107.7, 16-108.9,

1 and 16-108.10 as follows:

2 (220 ILCS 5/8-103)

3 Sec. 8-103. Energy efficiency and demand-response  
4 measures.

5 (a) It is the policy of the State that electric utilities  
6 are required to use cost-effective energy efficiency and  
7 demand-response measures to reduce delivery load. Requiring  
8 investment in cost-effective energy efficiency and  
9 demand-response measures will reduce direct and indirect costs  
10 to consumers by decreasing environmental impacts and by  
11 avoiding or delaying the need for new generation, transmission,  
12 and distribution infrastructure. It serves the public interest  
13 to allow electric utilities to recover costs for reasonably and  
14 prudently incurred expenses for energy efficiency and  
15 demand-response measures. As used in this Section,  
16 "cost-effective" means that the measures satisfy the total  
17 resource cost test. The low-income measures described in  
18 subsection (f) (4) of this Section shall not be required to meet  
19 the total resource cost test. For purposes of this Section, the  
20 terms "energy-efficiency", "demand-response", "electric  
21 utility", and "total resource cost test" shall have the  
22 meanings set forth in the Illinois Power Agency Act. For  
23 purposes of this Section, the amount per kilowatthour means the  
24 total amount paid for electric service expressed on a per  
25 kilowatthour basis. For purposes of this Section, the total

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

4 (a-5) This Section applies to electric utilities serving  
5 3,000,000 or less retail customers in the State. Through  
6 December 31, 2017, this Section also applies to electric  
7 utilities serving more than 3,000,000 retail customers in the  
8 State.

9 (b) Electric utilities shall implement cost-effective  
10 energy efficiency measures to meet the following incremental  
11 annual energy savings goals:

12 (1) 0.2% of energy delivered in the year commencing  
13 June 1, 2008;

14 (2) 0.4% of energy delivered in the year commencing  
15 June 1, 2009;

16 (3) 0.6% of energy delivered in the year commencing  
17 June 1, 2010;

18 (4) 0.8% of energy delivered in the year commencing  
19 June 1, 2011;

20 (5) 1% of energy delivered in the year commencing June  
21 1, 2012;

22 (6) 1.4% of energy delivered in the year commencing  
23 June 1, 2013;

24 (7) 1.8% of energy delivered in the year commencing  
25 June 1, 2014; and

26 (8) 2% of energy delivered in the year commencing June

1           1, 2015 and each year thereafter.

2           Electric utilities may comply with this subsection (b) by  
3 meeting the annual incremental savings goal in the applicable  
4 year or by showing that the total cumulative annual savings  
5 within a 3-year planning period associated with measures  
6 implemented after May 31, 2014 was equal to the sum of each  
7 annual incremental savings requirement from May 31, 2014  
8 through the end of the applicable year.

9           (c) Electric utilities shall implement cost-effective  
10 demand-response measures to reduce peak demand by 0.1% over the  
11 prior year for eligible retail customers, as defined in Section  
12 16-111.5 of this Act, and for customers that elect hourly  
13 service from the utility pursuant to Section 16-107 of this  
14 Act, provided those customers have not been declared  
15 competitive. This requirement commences June 1, 2008 and  
16 continues for 10 years.

17           (d) Notwithstanding the requirements of subsections (b)  
18 and (c) of this Section, an electric utility shall reduce the  
19 amount of energy efficiency and demand-response measures  
20 implemented over a 3-year planning period by an amount  
21 necessary to limit the estimated average annual increase in the  
22 amounts paid by retail customers in connection with electric  
23 service due to the cost of those measures to:

24                   (1) in 2008, no more than 0.5% of the amount paid per  
25                   kilowatthour by those customers during the year ending May  
26                   31, 2007;

1           (2) in 2009, the greater of an additional 0.5% of the  
2 amount paid per kilowatthour by those customers during the  
3 year ending May 31, 2008 or 1% of the amount paid per  
4 kilowatthour by those customers during the year ending May  
5 31, 2007;

6           (3) in 2010, the greater of an additional 0.5% of the  
7 amount paid per kilowatthour by those customers during the  
8 year ending May 31, 2009 or 1.5% of the amount paid per  
9 kilowatthour by those customers during the year ending May  
10 31, 2007;

11           (4) in 2011, the greater of an additional 0.5% of the  
12 amount paid per kilowatthour by those customers during the  
13 year ending May 31, 2010 or 2% of the amount paid per  
14 kilowatthour by those customers during the year ending May  
15 31, 2007; and

16           (5) thereafter, the amount of energy efficiency and  
17 demand-response measures implemented for any single year  
18 shall be reduced by an amount necessary to limit the  
19 estimated average net increase due to the cost of these  
20 measures included in the amounts paid by eligible retail  
21 customers in connection with electric service to no more  
22 than the greater of 2.015% of the amount paid per  
23 kilowatthour by those customers during the year ending May  
24 31, 2007 or the incremental amount per kilowatthour paid  
25 for these measures in 2011.

26 No later than June 30, 2011, the Commission shall review

1 the limitation on the amount of energy efficiency and  
2 demand-response measures implemented pursuant to this Section  
3 and report to the General Assembly its findings as to whether  
4 that limitation unduly constrains the procurement of energy  
5 efficiency and demand-response measures.

6 (e) Electric utilities shall be responsible for overseeing  
7 the design, development, and filing of energy efficiency and  
8 demand-response plans with the Commission. Electric utilities  
9 shall implement 100% of the demand-response measures in the  
10 plans. Electric utilities shall implement 75% of the energy  
11 efficiency measures approved by the Commission, and may, as  
12 part of that implementation, outsource various aspects of  
13 program development and implementation. The remaining 25% of  
14 those energy efficiency measures approved by the Commission  
15 shall be implemented by the Department of Commerce and Economic  
16 Opportunity, and must be designed in conjunction with the  
17 utility and the filing process. The Department may outsource  
18 development and implementation of energy efficiency measures.  
19 A minimum of 10% of the entire portfolio of cost-effective  
20 energy efficiency measures shall be procured from units of  
21 local government, municipal corporations, school districts,  
22 and community college districts. The Department shall  
23 coordinate the implementation of these measures.

24 The apportionment of the dollars to cover the costs to  
25 implement the Department's share of the portfolio of energy  
26 efficiency measures shall be made to the Department once the

1 Department has executed rebate agreements, grants, or  
2 contracts for energy efficiency measures and provided  
3 supporting documentation for those rebate agreements, grants,  
4 and contracts to the utility. The Department is authorized to  
5 adopt any rules necessary and prescribe procedures in order to  
6 ensure compliance by applicants in carrying out the purposes of  
7 rebate agreements for energy efficiency measures implemented  
8 by the Department made under this Section.

9 The details of the measures implemented by the Department  
10 shall be submitted by the Department to the Commission in  
11 connection with the utility's filing regarding the energy  
12 efficiency and demand-response measures that the utility  
13 implements.

14 A utility providing approved energy efficiency and  
15 demand-response measures in the State shall be permitted to  
16 recover costs of those measures through an automatic adjustment  
17 clause tariff filed with and approved by the Commission. The  
18 tariff shall be established outside the context of a general  
19 rate case. Each year the Commission shall initiate a review to  
20 reconcile any amounts collected with the actual costs and to  
21 determine the required adjustment to the annual tariff factor  
22 to match annual expenditures.

23 Each utility shall include, in its recovery of costs, the  
24 costs estimated for both the utility's and the Department's  
25 implementation of energy efficiency and demand-response  
26 measures. Costs collected by the utility for measures

1 implemented by the Department shall be submitted to the  
2 Department pursuant to Section 605-323 of the Civil  
3 Administrative Code of Illinois, shall be deposited into the  
4 Energy Efficiency Portfolio Standards Fund, and shall be used  
5 by the Department solely for the purpose of implementing these  
6 measures. A utility shall not be required to advance any moneys  
7 to the Department but only to forward such funds as it has  
8 collected. The Department shall report to the Commission on an  
9 annual basis regarding the costs actually incurred by the  
10 Department in the implementation of the measures. Any changes  
11 to the costs of energy efficiency measures as a result of plan  
12 modifications shall be appropriately reflected in amounts  
13 recovered by the utility and turned over to the Department.

14 The portfolio of measures, administered by both the  
15 utilities and the Department, shall, in combination, be  
16 designed to achieve the annual savings targets described in  
17 subsections (b) and (c) of this Section, as modified by  
18 subsection (d) of this Section.

19 The utility and the Department shall agree upon a  
20 reasonable portfolio of measures and determine the measurable  
21 corresponding percentage of the savings goals associated with  
22 measures implemented by the utility or Department.

23 No utility shall be assessed a penalty under subsection (f)  
24 of this Section for failure to make a timely filing if that  
25 failure is the result of a lack of agreement with the  
26 Department with respect to the allocation of responsibilities

1 or related costs or target assignments. In that case, the  
2 Department and the utility shall file their respective plans  
3 with the Commission and the Commission shall determine an  
4 appropriate division of measures and programs that meets the  
5 requirements of this Section.

6 If the Department is unable to meet incremental annual  
7 performance goals for the portion of the portfolio implemented  
8 by the Department, then the utility and the Department shall  
9 jointly submit a modified filing to the Commission explaining  
10 the performance shortfall and recommending an appropriate  
11 course going forward, including any program modifications that  
12 may be appropriate in light of the evaluations conducted under  
13 item (7) of subsection (f) of this Section. In this case, the  
14 utility obligation to collect the Department's costs and turn  
15 over those funds to the Department under this subsection (e)  
16 shall continue only if the Commission approves the  
17 modifications to the plan proposed by the Department.

18 (f) No later than November 15, 2007, each electric utility  
19 shall file an energy efficiency and demand-response plan with  
20 the Commission to meet the energy efficiency and  
21 demand-response standards for 2008 through 2010. No later than  
22 October 1, 2010, each electric utility shall file an energy  
23 efficiency and demand-response plan with the Commission to meet  
24 the energy efficiency and demand-response standards for 2011  
25 through 2013. Every 3 years thereafter, each electric utility  
26 shall file, no later than September 1, an energy efficiency and

1 demand-response plan with the Commission. If a utility does not  
2 file such a plan by September 1 of an applicable year, it shall  
3 face a penalty of \$100,000 per day until the plan is filed.  
4 Each utility's plan shall set forth the utility's proposals to  
5 meet the utility's portion of the energy efficiency standards  
6 identified in subsection (b) and the demand-response standards  
7 identified in subsection (c) of this Section as modified by  
8 subsections (d) and (e), taking into account the unique  
9 circumstances of the utility's service territory. The  
10 Commission shall seek public comment on the utility's plan and  
11 shall issue an order approving or disapproving each plan within  
12 5 months after its submission. If the Commission disapproves a  
13 plan, the Commission shall, within 30 days, describe in detail  
14 the reasons for the disapproval and describe a path by which  
15 the utility may file a revised draft of the plan to address the  
16 Commission's concerns satisfactorily. If the utility does not  
17 refile with the Commission within 60 days, the utility shall be  
18 subject to penalties at a rate of \$100,000 per day until the  
19 plan is filed. This process shall continue, and penalties shall  
20 accrue, until the utility has successfully filed a portfolio of  
21 energy efficiency and demand-response measures. Penalties  
22 shall be deposited into the Energy Efficiency Trust Fund. In  
23 submitting proposed energy efficiency and demand-response  
24 plans and funding levels to meet the savings goals adopted by  
25 this Act the utility shall:

- 26 (1) Demonstrate that its proposed energy efficiency

1 and demand-response measures will achieve the requirements  
2 that are identified in subsections (b) and (c) of this  
3 Section, as modified by subsections (d) and (e).

4 (2) Present specific proposals to implement new  
5 building and appliance standards that have been placed into  
6 effect.

7 (3) Present estimates of the total amount paid for  
8 electric service expressed on a per kilowatthour basis  
9 associated with the proposed portfolio of measures  
10 designed to meet the requirements that are identified in  
11 subsections (b) and (c) of this Section, as modified by  
12 subsections (d) and (e).

13 (4) Coordinate with the Department to present a  
14 portfolio of energy efficiency measures proportionate to  
15 the share of total annual utility revenues in Illinois from  
16 households at or below 150% of the poverty level. The  
17 energy efficiency programs shall be targeted to households  
18 with incomes at or below 80% of area median income.

19 (5) Demonstrate that its overall portfolio of energy  
20 efficiency and demand-response measures, not including  
21 programs covered by item (4) of this subsection (f), are  
22 cost-effective using the total resource cost test and  
23 represent a diverse cross-section of opportunities for  
24 customers of all rate classes to participate in the  
25 programs.

26 (6) Include a proposed cost-recovery tariff mechanism

1 to fund the proposed energy efficiency and demand-response  
2 measures and to ensure the recovery of the prudently and  
3 reasonably incurred costs of Commission-approved programs.

4 (7) Provide for an annual independent evaluation of the  
5 performance of the cost-effectiveness of the utility's  
6 portfolio of measures and the Department's portfolio of  
7 measures, as well as a full review of the 3-year results of  
8 the broader net program impacts and, to the extent  
9 practical, for adjustment of the measures on a  
10 going-forward basis as a result of the evaluations. The  
11 resources dedicated to evaluation shall not exceed 3% of  
12 portfolio resources in any given year.

13 (g) No more than 3% of energy efficiency and  
14 demand-response program revenue may be allocated for  
15 demonstration of breakthrough equipment and devices.

16 (h) This Section does not apply to an electric utility that  
17 on December 31, 2005 provided electric service to fewer than  
18 100,000 customers in Illinois.

19 (i) If, after 2 years, an electric utility fails to meet  
20 the efficiency standard specified in subsection (b) of this  
21 Section, as modified by subsections (d) and (e), it shall make  
22 a contribution to the Low-Income Home Energy Assistance  
23 Program. The combined total liability for failure to meet the  
24 goal shall be \$1,000,000, which shall be assessed as follows: a  
25 large electric utility shall pay \$665,000, and a medium  
26 electric utility shall pay \$335,000. If, after 3 years, an

1 electric utility fails to meet the efficiency standard  
2 specified in subsection (b) of this Section, as modified by  
3 subsections (d) and (e), it shall make a contribution to the  
4 Low-Income Home Energy Assistance Program. The combined total  
5 liability for failure to meet the goal shall be \$1,000,000,  
6 which shall be assessed as follows: a large electric utility  
7 shall pay \$665,000, and a medium electric utility shall pay  
8 \$335,000. In addition, the responsibility for implementing the  
9 energy efficiency measures of the utility making the payment  
10 shall be transferred to the Illinois Power Agency if, after 3  
11 years, or in any subsequent 3-year period, the utility fails to  
12 meet the efficiency standard specified in subsection (b) of  
13 this Section, as modified by subsections (d) and (e). The  
14 Agency shall implement a competitive procurement program to  
15 procure resources necessary to meet the standards specified in  
16 this Section as modified by subsections (d) and (e), with costs  
17 for those resources to be recovered in the same manner as  
18 products purchased through the procurement plan as provided in  
19 Section 16-111.5. The Director shall implement this  
20 requirement in connection with the procurement plan as provided  
21 in Section 16-111.5.

22 For purposes of this Section, (i) a "large electric  
23 utility" is an electric utility that, on December 31, 2005,  
24 served more than 2,000,000 electric customers in Illinois; (ii)  
25 a "medium electric utility" is an electric utility that, on  
26 December 31, 2005, served 2,000,000 or fewer but more than

1 100,000 electric customers in Illinois; and (iii) Illinois  
2 electric utilities that are affiliated by virtue of a common  
3 parent company are considered a single electric utility.

4 (j) If, after 3 years, or any subsequent 3-year period, the  
5 Department fails to implement the Department's share of energy  
6 efficiency measures required by the standards in subsection  
7 (b), then the Illinois Power Agency may assume responsibility  
8 for and control of the Department's share of the required  
9 energy efficiency measures. The Agency shall implement a  
10 competitive procurement program to procure resources necessary  
11 to meet the standards specified in this Section, with the costs  
12 of these resources to be recovered in the same manner as  
13 provided for the Department in this Section.

14 (k) No electric utility shall be deemed to have failed to  
15 meet the energy efficiency standards to the extent any such  
16 failure is due to a failure of the Department or the Agency.

17 (l) Electric utilities' 3-year energy efficiency and  
18 demand-response plans approved by the Commission on or before  
19 the effective date of this amendatory Act of the 99th General  
20 Assembly for the period June 1, 2014 through May 31, 2017 shall  
21 continue to be in force and effect through December 31, 2017 so  
22 that the energy efficiency programs set forth in those plans  
23 continue to be offered during the period June 1, 2017 through  
24 December 31, 2017. Each utility is authorized to increase, on a  
25 pro rata basis, the energy savings goals and budgets approved  
26 in its plan to reflect the additional 7 months of the plan's

1 operation.

2 (Source: P.A. 97-616, eff. 10-26-11; 97-841, eff. 7-20-12;  
3 98-90, eff. 7-15-13.)

4 (220 ILCS 5/8-103B new)

5 Sec. 8-103B. Energy efficiency and demand-response  
6 measures.

7 (a) It is the policy of the State that electric utilities  
8 are required to use cost-effective energy efficiency and  
9 demand-response measures to reduce delivery load. Requiring  
10 investment in cost-effective energy efficiency and  
11 demand-response measures will reduce direct and indirect costs  
12 to consumers by decreasing environmental impacts and by  
13 avoiding or delaying the need for new generation, transmission,  
14 and distribution infrastructure. It serves the public interest  
15 to allow electric utilities to recover costs for reasonably and  
16 prudently incurred expenses for energy efficiency and  
17 demand-response measures. As used in this Section,  
18 "cost-effective" means that the measures satisfy the total  
19 resource cost test. The low-income measures described in  
20 subsection (c) of this Section shall not be required to meet  
21 the total resource cost test. For purposes of this Section, the  
22 terms "energy-efficiency", "demand-response", "electric  
23 utility", and "total resource cost test" have the meanings set  
24 forth in the Illinois Power Agency Act. For purposes of this  
25 Section, the amount per kilowatthour means the total amount

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

6 (a-5) After December 31, 2017, this Section applies to  
7 electric utilities serving more than 3,000,000 retail  
8 customers in the State.

9 (b) For purposes of this Section, electric utilities  
10 subject to this Section shall be deemed to have achieved a  
11 cumulative persisting annual savings of 6.6%, or 5,777,692  
12 megawatt-hours (MWhs), for the year ending December 31, 2017,  
13 which is based on the deemed average weather normalized sales  
14 of electric power and energy during calendar years 2014, 2015,  
15 and 2016 of 88,000,000 MWhs. The 88,000,000 MWhs of deemed  
16 electric power and energy sales shall also serve as the  
17 baseline value for calculating the cumulative persisting  
18 annual savings in subsection (b-5). After 2017, the deemed  
19 value of cumulative persisting annual savings shall be reduced  
20 each year, as follows, and the applicable value shall be  
21 applied to and count toward the utility's achievement of the  
22 cumulative persisting annual savings goals set forth in  
23 subsection (b-5):

24 (1) 5.8%, or 5,071,018 MWhs, deemed cumulative  
25 persisting annual savings for the year ending December 31,  
26 2018;

1           (2) 5.2%, or 4,553,371 MWhs, deemed cumulative  
2 persisting annual savings for the year ending December 31,  
3 2019;

4           (3) 4.5%, or 3,998.012 MWhs, deemed cumulative  
5 persisting annual savings for the year ending December 31,  
6 2020;

7           (4) 4%, or 3,533,219 MWhs, deemed cumulative  
8 persisting annual savings for the year ending December 31,  
9 2021;

10           (5) 3.5%, or 3,108,290 MWhs, deemed cumulative  
11 persisting annual savings for the year ending December 31,  
12 2022;

13           (6) 3.1%, or 2,738,689 MWhs, deemed cumulative  
14 persisting annual savings for the year ending December 31,  
15 2023;

16           (7) 2.8%, or 2,463,055 MWhs, deemed cumulative  
17 persisting annual savings for the year ending December 31,  
18 2024;

19           (8) 2.5%, or 2,221,716 MWhs, deemed cumulative  
20 persisting annual savings for the year ending December 31,  
21 2025;

22           (9) 2.3%, or 2,017,109 MWhs, deemed cumulative  
23 persisting annual savings for the year ending December 31,  
24 2026;

25           (10) 2.1%, or 1,822,754 MWhs, deemed cumulative  
26 persisting annual savings for the year ending December 31,

1       2027;

2           (11) 1.8%, or 1,624,769 MWhs, deemed cumulative  
3       persisting annual savings for the year ending December 31,  
4       2028;

5           (12) 1.7%, or 1,460,039 MWhs, deemed cumulative  
6       persisting annual savings for the year ending December 31,  
7       2029; and

8           (13) 1.5%, or 1,181,647 MWhs, deemed cumulative  
9       persisting annual savings for the year ending December 31,  
10       2030.

11       For purposes of this Section, "cumulative persisting  
12       annual savings" means the total electric energy savings in a  
13       given year from measures installed in that year or in previous  
14       years that are still operational and providing savings in that  
15       year because the measures have not yet reached the end of their  
16       useful lives.

17       (b-5) Beginning in 2018, electric utilities shall achieve  
18       the following cumulative persisting annual savings goals, as  
19       modified by subsection (f) of this Section and as compared to  
20       the deemed baseline of 88,000,000 MWhs of electric power and  
21       energy sales set forth in subsection (b), through the  
22       implementation of cost-effective energy efficiency measures  
23       during the applicable year and in prior years by the utility  
24       and, if applicable, the Department:

25           (1) 8% cumulative persisting annual savings for the  
26       year ending December 31, 2018;

1           (2) 9.5% cumulative persisting annual savings for the  
2           year ending December 31, 2019;

3           (3) 11% cumulative persisting annual savings for the  
4           year ending December 31, 2020;

5           (4) 12.5% cumulative persisting annual savings for the  
6           year ending December 31, 2021;

7           (5) 14% cumulative persisting annual savings for the  
8           year ending December 31, 2022;

9           (6) 15.5% cumulative persisting annual savings for the  
10           year ending December 31, 2023;

11           (7) 17% cumulative persisting annual savings for the  
12           year ending December 31, 2024;

13           (8) 18.5% cumulative persisting annual savings for the  
14           year ending December 31, 2025;

15           (9) 19.4% cumulative persisting annual savings for the  
16           year ending December 31, 2026;

17           (10) 20.3% cumulative persisting annual savings for  
18           the year ending December 31, 2027;

19           (11) 21.2% cumulative persisting annual savings for  
20           the year ending December 31, 2028;

21           (12) 22.1% cumulative persisting annual savings for  
22           the year ending December 31, 2029; and

23           (13) 23% cumulative persisting annual savings for the  
24           year ending December 31, 2030.

25           (b-10) Each electric utility that serves more than  
26           3,000,000 retail customers in the State shall include

1 cost-effective voltage optimization measures in its plans  
2 submitted pursuant to subsection (f) or (g) of this Section,  
3 and the costs incurred by a utility to implement the measures  
4 pursuant to a Commission-approved plan shall be recovered, at  
5 the utility's election, either through the automatic  
6 adjustment clause tariff approved under subsection (d) of this  
7 Section, an energy efficiency formula rate tariff approved  
8 under subsection (d) of this Section, or pursuant to the  
9 provisions of Article IX or Section 16-108.5 of this Act. For  
10 purposes of this Section, the measure life of voltage  
11 optimization measures shall be 15 years. The measure life  
12 period is independent of the depreciation rate of the voltage  
13 optimization assets deployed.

14 In the event an electric utility jointly offers an energy  
15 efficiency measure or program with a gas utility pursuant to  
16 plans approved under this Section and Section 8-104 of this  
17 Act, the electric utility may continue offering the program,  
18 including the gas energy efficiency measures, in the event the  
19 gas utility discontinues funding the program. In that event, up  
20 to 30% of the annual savings goal calculated pursuant to  
21 subsection (b) of this Section may be met through savings of  
22 fuels other than electricity, and the energy savings value  
23 associated with such other fuels shall be converted to electric  
24 energy savings on an equivalent Btu basis for the premises.  
25 However, the utility shall prioritize gas savings for  
26 low-income residential customers to the extent practicable. An

1 electric utility may recover the costs of offering the gas  
2 energy efficiency measures pursuant to this subsection (b-10).

3 For those energy efficiency measures or programs that are  
4 not jointly offered with a gas utility pursuant to plans  
5 approved under this Section and Section 8-104, the electric  
6 utility may count savings of fuels other than electricity  
7 toward the achievement of its annual savings goal, and the  
8 energy savings value associated with such other fuels shall be  
9 converted to electric energy savings on an equivalent Btu basis  
10 at the premises.

11 (c) Electric utilities shall be responsible for overseeing  
12 the design, development, and filing of energy efficiency plans  
13 with the Commission and may, as part of that implementation,  
14 outsource various aspects of program development and  
15 implementation. A minimum of 10% of the entire portfolio budget  
16 for a given year shall be used to procure cost-effective energy  
17 efficiency measures from units of local government, municipal  
18 corporations, school districts, public housing, and community  
19 college districts, provided that a minimum percentage of  
20 available funds shall be used to procure energy efficiency from  
21 public housing, which percentage shall be equal to public  
22 housing's share of public building energy consumption.

23 The utilities shall also implement energy efficiency  
24 measures targeted at low-income households, which, for  
25 purposes of this Section, shall be defined as households at or  
26 below 80% of area median income, and expenditures to implement

1 the measures shall be no less than \$50,000,000 per year. For  
2 the multi-year plan commencing on January 1, 2018, the energy  
3 savings attributable to such programs shall not be less than  
4 29,239,766 kilowatt-hours per year for the years commencing  
5 January 1, 2018 and January 1, 2019. For every 2-year period  
6 thereafter, the utility shall submit an informational filing to  
7 the Commission 90 days prior to the beginning of the 2-year  
8 period that calculates the (i) cost per kilowatt-hour of energy  
9 savings to be achieved and (ii) the resulting annual energy  
10 savings to be achieved each year, under the low-income programs  
11 during the applicable 2-year period.

12 Each electric utility shall assess opportunities to  
13 implement cost-effective energy efficiency measures and  
14 programs through a public housing authority or authorities  
15 located in its service territory. If such opportunities are  
16 identified, the utility shall propose such measures and  
17 programs to address the opportunities. Expenditures to address  
18 such opportunities shall be credited toward the minimum  
19 procurement and expenditure requirements set forth in this  
20 subsection (c).

21 Implementation of energy efficiency measures and programs  
22 targeted at low-income households should be contracted, when it  
23 is practicable, to independent third parties that have  
24 demonstrated capabilities to serve such households, with a  
25 preference for not-for-profit entities and government agencies  
26 that have existing relationships with or experience serving

1 low-income communities in the State.

2 Each electric utility shall develop and implement  
3 reporting procedures that address and assist in determining the  
4 amount of energy savings that can be applied to the low-income  
5 procurement and expenditure requirements set forth in this  
6 subsection (c).

7 The electric utilities shall also convene a low-income  
8 energy efficiency advisory committee to assist in the design  
9 and evaluation of the low-income energy efficiency programs.  
10 The committee shall be comprised of the electric utilities  
11 subject to the requirements of this Section, the gas utilities  
12 subject to the requirements of Section 8-104 of this Act, the  
13 utilities' low-income energy efficiency implementation  
14 contractors, and representatives of community-based  
15 organizations.

16 (d) A utility providing approved energy efficiency  
17 measures and, if applicable, demand-response measures in the  
18 State shall be permitted to recover costs of those measures as  
19 follows:

20 (1) The utility may recover its costs through an  
21 automatic adjustment clause tariff filed with and approved  
22 by the Commission. The tariff shall be established outside  
23 the context of a general rate case. Each year the  
24 Commission shall initiate a review to reconcile any amounts  
25 collected with the actual costs and to determine the  
26 required adjustment to the annual tariff factor to match

1 annual expenditures.

2 (2) A utility may recover its costs through an energy  
3 efficiency formula rate approved by the Commission  
4 pursuant to a filing under subsection (f) or (g) of this  
5 Section, which shall specify the cost components that form  
6 the basis of the rate charged to customers with sufficient  
7 specificity to operate in a standardized manner and be  
8 updated annually with transparent information that  
9 reflects the utility's actual costs to be recovered during  
10 the applicable rate year, which is the period beginning  
11 with the first billing day of January and extending through  
12 the last billing day of the following December. The energy  
13 efficiency formula rate shall be implemented through a  
14 tariff filed with the Commission under subsection (f) or  
15 (g) of this Section that is consistent with the provisions  
16 of this paragraph (2) and that shall be applicable to all  
17 delivery services customers. The Commission shall conduct  
18 an investigation of the tariff in a manner consistent with  
19 the provisions of this paragraph (2), subsection (f) or (g)  
20 of this Section, and the provisions of Article IX of this  
21 Act to the extent they do not conflict with this paragraph  
22 (2). The energy efficiency formula rate approved by the  
23 Commission shall remain in effect at the discretion of the  
24 utility and shall do the following:

25 (A) Provide for the recovery of the utility's  
26 actual costs incurred under this Section that are

1 prudently incurred and reasonable in amount consistent  
2 with Commission practice and law. The sole fact that a  
3 cost differs from that incurred in a prior calendar  
4 year or that an investment is different from that made  
5 in a prior calendar year shall not imply the imprudence  
6 or unreasonableness of that cost or investment.

7 (B) Reflect the utility's actual year-end capital  
8 structure for the applicable calendar year, excluding  
9 goodwill, subject to a determination of prudence and  
10 reasonableness consistent with Commission practice and  
11 law.

12 (C) Include a cost of equity, which shall be  
13 calculated as the sum of the following:

14 (i) the average for the applicable calendar  
15 year of the monthly average yields of 30-year U.S.  
16 Treasury bonds published by the Board of Governors  
17 of the Federal Reserve System in its weekly H.15  
18 Statistical Release or successor publication; and

19 (ii) 580 basis points.

20 At such time as the Board of Governors of the  
21 Federal Reserve System ceases to include the monthly  
22 average yields of 30-year U.S. Treasury bonds in its  
23 weekly H.15 Statistical Release or successor  
24 publication, the monthly average yields of the U.S.  
25 Treasury bonds then having the longest duration  
26 published by the Board of Governors in its weekly H.15

1           Statistical Release or successor publication shall  
2           instead be used for purposes of this paragraph (2).

3           (D) Permit and set forth protocols, subject to a  
4           determination of prudence and reasonableness  
5           consistent with Commission practice and law, for the  
6           following:

7                   (i) recovery of incentive compensation expense  
8                   that is based on the achievement of operational  
9                   metrics, including metrics related to budget  
10                   controls, outage duration and frequency, safety,  
11                   customer service, efficiency and productivity, and  
12                   environmental compliance; however, this protocol  
13                   shall not apply if such expense related to costs  
14                   incurred under this Section is recovered under  
15                   Article IX or Section 16-108.5 of this Act;  
16                   incentive compensation expense that is based on  
17                   net income or an affiliate's earnings per share  
18                   shall not be recoverable under the energy  
19                   efficiency formula rate;

20                   (ii) recovery of pension and other  
21                   post-employment benefits expense, provided that  
22                   such costs are supported by an actuarial study;  
23                   however, this protocol shall not apply if such  
24                   expense related to costs incurred under this  
25                   Section is recovered under Article IX or Section  
26                   16-108.5 of this Act;

1           (iii) recovery of existing regulatory assets  
2           over the periods previously authorized by the  
3           Commission;

4           (iv) as described in subsection (e),  
5           amortization of costs incurred under this Section;  
6           and

7           (v) projected, weather normalized billing  
8           determinants for the applicable rate year.

9           (E) Provide for an annual reconciliation, as  
10          described in paragraph (3) of this subsection (d), less  
11          any deferred taxes related to the reconciliation, with  
12          interest at an annual rate of return equal to the  
13          utility's weighted average cost of capital, including  
14          a revenue conversion factor calculated to recover or  
15          refund all additional income taxes that may be payable  
16          or receivable as a result of that return, of the energy  
17          efficiency revenue requirement reflected in rates for  
18          each calendar year, beginning with the calendar year in  
19          which the utility files its energy efficiency formula  
20          rate tariff pursuant to this paragraph (2), with what  
21          the revenue requirement would have been had the actual  
22          cost information for the applicable calendar year been  
23          available at the filing date.

24          The utility shall file, together with its tariff, the  
25          projected costs to be incurred by the utility during the  
26          rate year pursuant the utility's multi-year plan approved

1 under subsection (f) or (g) of this Section, including, but  
2 not limited to, the projected capital investment costs and  
3 projected regulatory asset balances with correspondingly  
4 updated depreciation and amortization reserves and  
5 expense, that shall populate the energy efficiency formula  
6 rate and set the initial rates under the formula.

7 The Commission shall review the proposed tariff in  
8 conjunction with its review of a proposed multi-year plan,  
9 as specified in paragraph (5) of subsection (g) of this  
10 Section. The review shall be based on the same evidentiary  
11 standards, including, but not limited to, those concerning  
12 the prudence and reasonableness of the costs incurred by  
13 the utility, the Commission applies in a hearing to review  
14 a filing for a general increase in rates under Article IX  
15 of this Act. The initial rates shall take effect beginning  
16 with the January monthly billing period following the  
17 Commission's approval.

18 Rate design and cost allocation across customer  
19 classes shall be consistent with the utility's automatic  
20 adjustment clause tariff in effect on the effective date of  
21 this amendatory Act of the 99th General Assembly.

22 In the event the energy efficiency formula rate is  
23 terminated, the then current rates shall remain in effect  
24 until such time as the energy efficiency costs are  
25 incorporated into new rates that are set pursuant to this  
26 subsection (d) or Article IX of this Act, subject to

1       retroactive rate adjustment, with interest, to reconcile  
2       rates charged with actual costs.

3       (3) The provisions of this paragraph (3) shall only  
4       apply to an electric utility that has elected to file an  
5       energy efficiency formula rate under paragraph (2) of this  
6       subsection (d). Subsequent to the Commission's issuance of  
7       an order approving the utility's energy efficiency formula  
8       rate structure and protocols, and initial rates under  
9       paragraph (2) of this subsection (d), the utility shall  
10      file, on or before June 1 of each year, with the Chief  
11      Clerk of the Commission its updated cost inputs to the  
12      energy efficiency formula rate for the applicable rate year  
13      and the corresponding new charges. Each such filing shall  
14      conform to the following requirements and include the  
15      following information:

16           (A) The inputs to the energy efficiency formula  
17           rate for the applicable rate year shall be based on the  
18           projected costs to be incurred by the utility during  
19           the rate year pursuant to the utility's multi-year plan  
20           approved under subsection (f) or (g) of this Section,  
21           including, but not limited to, projected capital  
22           investment costs and projected regulatory asset  
23           balances with correspondingly updated depreciation and  
24           amortization reserves and expense. The filing shall  
25           also include a reconciliation of the energy efficiency  
26           revenue requirement that was in effect for the prior

1           rate year (as set by the cost inputs for the prior rate  
2           year) with the actual revenue requirement for the prior  
3           rate year (determined using a year-end rate base) that  
4           uses amounts reflected in the applicable FERC Form 1  
5           that reports the actual costs for the prior rate year.  
6           Any over-collection or under-collection indicated by  
7           such reconciliation shall be reflected as a credit  
8           against, or recovered as an additional charge to,  
9           respectively, with interest calculated at a rate equal  
10           to the utility's weighted average cost of capital  
11           approved by the Commission for the prior rate year, the  
12           charges for the applicable rate year. Such  
13           over-collection or under-collection shall be adjusted  
14           to remove any deferred taxes related to the  
15           reconciliation, for purposes of calculating interest  
16           at an annual rate of return equal to the utility's  
17           weighted average cost of capital approved by the  
18           Commission for the prior rate year, including a revenue  
19           conversion factor calculated to recover or refund all  
20           additional income taxes that may be payable or  
21           receivable as a result of that return. Each  
22           reconciliation shall be certified by the participating  
23           utility in the same manner that FERC Form 1 is  
24           certified. The filing shall also include the charge or  
25           credit, if any, resulting from the calculation  
26           required by subparagraph (E) of paragraph (2) of this

1           subsection (d).

2           Notwithstanding any other provision of law to the  
3           contrary, the intent of the reconciliation is to  
4           ultimately reconcile both the revenue requirement  
5           reflected in rates for each calendar year, beginning  
6           with the calendar year in which the utility files its  
7           energy efficiency formula rate tariff pursuant to  
8           paragraph (2) of this subsection (d), with what the  
9           revenue requirement determined using a year-end rate  
10          base for the applicable calendar year would have been  
11          had the actual cost information for the applicable  
12          calendar year been available at the filing date.

13          For purposes of this Section, "FERC Form 1" means  
14          the Annual Report of Major Electric Utilities,  
15          Licensees and Others that electric utilities are  
16          required to file with the Federal Energy Regulatory  
17          Commission under the Federal Power Act, Sections 3,  
18          4(a), 304 and 209, modified as necessary to be  
19          consistent with 83 Ill. Admin. Code Part 415 as of May  
20          1, 2011. Nothing in this Section is intended to allow  
21          costs that are not otherwise recoverable to be  
22          recoverable by virtue of inclusion in FERC Form 1.

23          (B) The new charges shall take effect beginning on  
24          the first billing day of the following January billing  
25          period and remain in effect through the last billing  
26          day of the next December billing period regardless of

1 whether the Commission enters upon a hearing pursuant  
2 to this paragraph (3).

3 (C) The filing shall include relevant and  
4 necessary data and documentation for the applicable  
5 rate year. Normalization adjustments shall not be  
6 required.

7 Within 45 days after the utility files its annual  
8 update of cost inputs to the energy efficiency formula  
9 rate, the Commission shall have the authority, either upon  
10 complaint or its own initiative, but with reasonable  
11 notice, to enter upon a hearing concerning whether the  
12 projected costs to be incurred by the utility and recovered  
13 during the applicable rate year, and that are reflected in  
14 the inputs to the energy efficiency formula rate, are  
15 consistent with the utility's approved multi-year plan  
16 under subsection (f) or (g) of this Section and whether the  
17 costs incurred by the utility during the prior rate year  
18 were prudent and reasonable. During the course of the  
19 hearing, each objection shall be stated with particularity  
20 and evidence provided in support thereof, after which the  
21 utility shall have the opportunity to rebut the evidence.  
22 Discovery shall be allowed consistent with the  
23 Commission's Rules of Practice, which Rules of Practice  
24 shall be enforced by the Commission or the assigned hearing  
25 examiner. The Commission shall apply the same evidentiary  
26 standards, including, but not limited to, those concerning

1 the prudence and reasonableness of the costs incurred by  
2 the utility, in the hearing as it would apply in a hearing  
3 to review a filing for a general increase in rates under  
4 Article IX of this Act. The Commission shall not, however,  
5 have the authority in a proceeding under this paragraph (3)  
6 to consider or order any changes to the structure or  
7 protocols of the energy efficiency formula rate approved  
8 pursuant to paragraph (2) of this subsection (d). In a  
9 proceeding under this paragraph (3), the Commission shall  
10 enter its order no later than the earlier of 195 days after  
11 the utility's filing of its annual update of cost inputs to  
12 the energy efficiency formula rate or December 15. The  
13 Commission's determinations of the prudence and  
14 reasonableness of the costs incurred for the applicable  
15 calendar year shall be final upon entry of the Commission's  
16 order and shall not be subject to reopening, reexamination,  
17 or collateral attack in any other Commission proceeding,  
18 case, docket, order, rule, or regulation; however, nothing  
19 in this paragraph (3) shall prohibit a party from  
20 petitioning the Commission to rehear or appeal to the  
21 courts the order pursuant to the provisions of this Act.

22 In the event the Commission does not, either upon  
23 complaint or its own initiative, enter upon a hearing  
24 within 45 days after the utility files the annual update of  
25 cost inputs to its energy efficiency formula rate, then the  
26 costs incurred for the applicable calendar year shall be

1 deemed prudent and reasonable and the filed charges shall  
2 not be subject to reopening, reexamination, or collateral  
3 attack in any other proceeding, case, docket, order, rule,  
4 or regulation.

5 (e) Beginning on the effective date of this amendatory Act  
6 of the 99th General Assembly, a utility subject to the  
7 requirements of this Section may elect to defer the full amount  
8 of its expenses incurred pursuant to this Section for each  
9 annual period as a regulatory asset. The total expenses  
10 deferred as a regulatory asset in a given year shall be  
11 amortized and recovered over a period that is equal to the  
12 weighted average of the energy efficiency measure lives  
13 implemented for that year that are reflected in the regulatory  
14 asset. The unamortized balance shall be recognized as of  
15 December 31 for a given year. The utility shall also earn a  
16 return on the total of the unamortized balances of all of the  
17 energy efficiency regulatory assets, less any deferred taxes  
18 related to those unamortized balances, at an annual rate equal  
19 to the utility's weighted average cost of capital that  
20 includes, based on a year-end capital structure, the utility's  
21 actual cost of debt for the applicable calendar year and a cost  
22 of equity, which shall be calculated as the sum of the (i) the  
23 average for the applicable calendar year of the monthly average  
24 yields of 30-year U.S. Treasury bonds published by the Board of  
25 Governors of the Federal Reserve System in its weekly H.15  
26 Statistical Release or successor publication; and (ii) 580

1 basis points, including a revenue conversion factor calculated  
2 to recover or refund all additional income taxes that may be  
3 payable or receivable as a result of that return. Capital  
4 investment costs, including, but not limited to, capital  
5 investment costs associated with voltage optimization measures  
6 that are described in subsection (b) of this Section, shall be  
7 depreciated and recovered over their useful lives consistent  
8 with generally accepted accounting principles. The weighted  
9 average cost of capital shall be applied to the capital  
10 investment cost balance, less any accumulated depreciation and  
11 accumulated deferred income taxes, as of December 31 for a  
12 given year.

13 When an electric utility creates a regulatory asset  
14 pursuant to the provisions of this Section, the costs are  
15 recovered over a period during which customers also receive a  
16 benefit which is in the public interest. Accordingly, it is the  
17 intent of the General Assembly that an electric utility that  
18 elects to create a regulatory asset pursuant to the provisions  
19 of this Section shall recover all of the associated costs as  
20 set forth in this Section. After the Commission has approved  
21 the prudence and reasonableness of the costs that comprise the  
22 regulatory asset, the electric utility shall be permitted to  
23 recover all such costs, and the value and recoverability  
24 through rates of the associated regulatory asset shall not be  
25 limited, altered, impaired, or reduced.

26 (f) Beginning in 2017, each electric utility shall file an

1 energy efficiency plan with the Commission to meet the energy  
2 efficiency standards for the next applicable multi-year period  
3 beginning January 1 of the year following the filing, according  
4 to the following schedule:

5 (1) No later than 30 days after the effective date of  
6 this amendatory Act of the 99th General Assembly or May 1,  
7 2017, whichever is later, each electric utility shall file  
8 a 4-year energy efficiency plan commencing on January 1,  
9 2018 that is designed to achieve the cumulative persisting  
10 annual savings goals specified in paragraphs (1) through  
11 (4) of subsection (b-5) of this Section through  
12 implementation of energy efficiency measures; however, the  
13 goals shall be reduced if the plan demonstrates that  
14 achievement of such goals is not cost effective.

15 (2) No later than March 1, 2021, each electric utility  
16 shall file a 4-year energy efficiency plan commencing on  
17 January 1, 2022 that is designed to achieve the cumulative  
18 persisting annual savings goals specified in paragraphs  
19 (5) through (8) of subsection (b-5) of this Section through  
20 implementation of energy efficiency measures; however, the  
21 goals shall be reduced if the plan demonstrates that  
22 achievement of such goals is not cost effective.

23 (3) No later than March 1, 2025, each electric utility  
24 shall file a 5-year energy efficiency plan commencing on  
25 January 1, 2026 that is designed to achieve the cumulative  
26 persisting annual savings goals specified in paragraphs

1       (9) through (13) of subsection (b-5) of this Section  
2       through implementation of energy efficiency measures;  
3       however, the goals shall be reduced if the plan  
4       demonstrates that achievement of such goals is not cost  
5       effective.

6       If a utility does not file such a plan on or before the  
7       applicable filing deadline for the plan, it shall face a  
8       penalty of \$100,000 per day until the plan is filed.

9       Each utility's plan shall set forth the utility's proposals  
10      to meet the utility's portion of the energy efficiency  
11      standards identified in subsection (b), as modified by  
12      subsections (d) and (e) of this Section, if applicable, taking  
13      into account the unique circumstances of the utility's service  
14      territory. For those plans commencing on January 1, 2018, the  
15      Commission shall seek public comment on the utility's plan and  
16      shall issue an order approving or disapproving each plan no  
17      later than August 31, 2017. For those plans commencing after  
18      December 31, 2021, the Commission shall seek public comment on  
19      the utility's plan and shall issue an order approving or  
20      disapproving each plan within 6 months after its submission. If  
21      the Commission disapproves a plan, the Commission shall, within  
22      30 days, describe in detail the reasons for the disapproval and  
23      describe a path by which the utility may file a revised draft  
24      of the plan to address the Commission's concerns  
25      satisfactorily. If the utility does not refile with the  
26      Commission within 60 days, the utility shall be subject to

1 penalties at a rate of \$100,000 per day until the plan is  
2 filed. This process shall continue, and penalties shall accrue,  
3 until the utility has successfully filed a portfolio of energy  
4 efficiency and demand-response measures. Penalties shall be  
5 deposited into the Energy Efficiency Trust Fund.

6 (g) In submitting proposed plans and funding levels to meet  
7 the savings goals adopted by this Act the utility shall:

8 (1) Demonstrate that its proposed energy efficiency  
9 measures and, if applicable, demand-response measures will  
10 achieve the requirements that are identified in  
11 subsections (b) and (c) of this Section, as modified by  
12 subsections (d) and (e), if applicable.

13 (2) Present specific proposals to implement new  
14 building and appliance standards that have been placed into  
15 effect.

16 (3) Demonstrate that its overall portfolio of  
17 measures, not including low-income programs described in  
18 subsection (c) of this Section, is cost-effective using the  
19 total resource cost test and represent a diverse  
20 cross-section of opportunities for customers of all rate  
21 classes to participate in the programs. Consistent with  
22 existing law, individual measures need not be cost  
23 effective, and the design of the portfolio, including its  
24 individual programs and measures, shall be subject to  
25 practical implementation considerations and limitations.

26 (4) Present a third-party energy efficiency

1 implementation program subject to the following  
2 requirements:

3 (A) beginning with the year commencing January 1,  
4 2019, the utility shall fund third-party energy  
5 efficiency programs in an amount that is no less than  
6 \$50,000,000 per year;

7 (B) during 2018, the utility shall conduct a  
8 solicitation process for purposes of requesting  
9 proposals from third-party vendors for those  
10 third-party energy efficiency programs to be offered  
11 during one or more of the years commencing January 1,  
12 2019, January 1, 2020, and January 1, 2021; for those  
13 multi-year plans commencing on January 1, 2022 and  
14 January 1, 2026, the utility shall conduct a  
15 solicitation process during 2021 and 2025,  
16 respectively, for purposes of requesting proposals  
17 from third-party vendors for those third-party energy  
18 efficiency programs to be offered during one or more  
19 years of the respective multi-year plan period; for  
20 each solicitation process, the utility shall identify  
21 the sector, technology, or geographical area for which  
22 it is seeking requests for proposals;

23 (C) the utility shall propose the bidder  
24 qualifications, performance measurement process, and  
25 contract structure, which must include a performance  
26 payment mechanism and general terms and conditions;

1           the proposed qualifications, process, and structure  
2           shall be subject to Commission approval;

3           (D) the utility shall retain an independent third  
4           party to score the proposals received through the  
5           solicitation process described in this paragraph (4),  
6           rank them according to their cost per lifetime  
7           kilowatt-hours saved, and assemble the portfolio of  
8           third-party programs;

9           (E) for purposes of determining under paragraph  
10           (7) of this subsection (g) the amount of cumulative  
11           persisting annual savings achieved by the utility, the  
12           programs implemented by third parties pursuant to this  
13           paragraph (4) shall be deemed to have achieved 80% of  
14           their projected savings regardless of the savings  
15           determined by the independent evaluator; if the  
16           independent evaluator determines that one or more  
17           programs achieved more than 80% of their projected  
18           savings, such incremental amount shall be credited to  
19           the utility's overall energy savings for the  
20           applicable year; and

21           (F) in the event a third-party vendor fails to  
22           achieve 2 consecutive quarterly performance targets,  
23           the utility shall have the right to cancel the contract  
24           and reallocate the funds to other third-party programs  
25           or programs administered by the utility.

26           The electric utility shall recover all costs

1 associated with Commission-approved, third-party  
2 administered programs regardless of the success of those  
3 programs, which is a restatement and clarification of  
4 existing law by this amendatory Act of the 99th General  
5 Assembly.

6 (5) Include a proposed or revised cost-recovery tariff  
7 mechanism, as provided for under subsection (d) of this  
8 Section, to fund the proposed energy efficiency and  
9 demand-response measures and to ensure the recovery of the  
10 prudently and reasonably incurred costs of  
11 Commission-approved programs.

12 (6) Provide for an annual independent evaluation of the  
13 performance of the cost-effectiveness of the utility's  
14 portfolio of measures, as well as a full review of the  
15 multi-year plan results of the broader net program impacts  
16 and, to the extent practical, for adjustment of the  
17 measures on a going-forward basis as a result of the  
18 evaluations. The resources dedicated to evaluation shall  
19 not exceed 3% of portfolio resources in any given year.

20 (7) Through December 31, 2030, provide for an  
21 adjustment to the return on equity component of the  
22 utility's weighted average cost of capital calculated  
23 pursuant to subsection (d) of this Section:

24 (A) If the independent evaluator determines that  
25 the utility achieved a cumulative persisting annual  
26 savings that is less than the applicable annual

1 incremental goal set forth in subsection (b) of this  
2 Section, then the return on equity component shall be  
3 reduced by a maximum of 200 basis points in the event  
4 that the utility achieved no more than 75% of such  
5 goal. If the utility achieved more than 75% of the  
6 applicable annual incremental goal but less than 100%  
7 of such goal, then the return on equity component shall  
8 be reduced by 8 basis points for each percent by which  
9 the utility failed to achieve the goal.

10 (B) If the independent evaluator determines that  
11 the utility achieved a cumulative persisting annual  
12 savings that is more than the applicable annual  
13 incremental goal set forth in subsection (b) of this  
14 Section, then the return on equity component shall be  
15 increased by a maximum of 200 basis points in the event  
16 that the utility achieved at least 125% of such goal.  
17 If the utility achieved more than 100% of the  
18 applicable annual incremental goal but less than 125%  
19 of such goal, then the return on equity component shall  
20 be increased by 8 basis points for each percent by  
21 which the utility achieved above the goal.

22 In the event that third-party implementation under  
23 paragraph (4) of this subsection (g) or the low-income  
24 energy efficiency programs under subsection (c) of this  
25 Section fail to perform as anticipated, the utility's  
26 annual goal shall be adjusted downward in proportion to the

1 failure to perform. The utility shall provide a methodology  
2 to adjust the annual goal in the event of such a failure to  
3 perform.

4 For purposes of this Section, the term "applicable  
5 annual incremental goal" means the difference between the  
6 cumulative persisting annual savings goal for the calendar  
7 year that is the subject of the independent evaluator's  
8 determination and the cumulative persisting annual savings  
9 goal for the immediately preceding calendar year, as such  
10 goals are defined in subsection (b-5) of this Section and  
11 as such goals may have been modified as provided for under  
12 paragraphs (1) through (3) of subsection (f) and to account  
13 for any adjustments resulting from the methodology  
14 approved under this paragraph (7) to address performance  
15 failure related to low-income and third-party administered  
16 energy efficiency programs.

17 The utility shall submit the energy savings data to the  
18 independent evaluator no later than 30 days after the close  
19 of the plan year. The independent evaluator shall determine  
20 the cumulative persisting annual savings for a given plan  
21 year no later than 120 days after the close of the plan  
22 year. The utility shall submit an informational filing to  
23 the Commission no later than 160 days after the close of  
24 the plan year that attaches the independent evaluator's  
25 final report identifying the cumulative persisting annual  
26 savings for the year and calculates any resulting change to

1       the utility's return on equity component of the weighted  
2       average cost of capital applicable to the next plan year  
3       beginning with the January monthly billing period and  
4       extending through the December monthly billing period.  
5       Following the utility's submittal of its informational  
6       filing for a given year, the Commission may, on its own  
7       motion or by petition, initiate an investigation of such  
8       filing, provided, however, that the utility's proposed  
9       return on equity calculation shall be deemed the final,  
10      approved calculation on December 15 of the year in which it  
11      is filed unless the Commission enters an order on or before  
12      December 15, after notice and hearing, that modifies such  
13      calculation consistent with this Section.

14       The adjustments to the return on equity component  
15      described in this paragraph (7) shall be applied as  
16      described in this paragraph through a separate tariff  
17      mechanism, which shall be filed by the utility under  
18      subsection (f) or (g) of this Section.

19      (h) No more than 6% of energy efficiency and  
20      demand-response program revenue may be allocated for research,  
21      development, or pilot deployment of new equipment or measures.

22      (i) When practicable, electric utilities shall incorporate  
23      advanced metering infrastructure data into the planning,  
24      implementation, and evaluation of energy efficiency measures  
25      and programs.

26      (j) Consistent with existing law, the independent

1 evaluator shall follow the guidelines and use the savings set  
2 forth in Commission-approved energy efficiency policy manuals  
3 and technical reference manuals, as each may be updated from  
4 time to time. Until such time as values for the following  
5 measures are incorporated into such Commission-approved  
6 manuals, the following measure life values shall apply:

7 (1) With respect to operational energy efficiency  
8 measures:

9 (A) a 5-year measure life value shall be used for  
10 energy savings resulting from operational energy  
11 efficiency measures that are implemented and  
12 validated; and

13 (B) a 10-year measure life value shall be used for  
14 energy savings resulting from operational energy  
15 efficiency measures that are implemented, validated,  
16 and persisting, as confirmed through a  
17 monitoring-based or hardwired feedback mechanism.

18 For purposes of this Section, operational energy  
19 efficiency measures are those measures that adjust or  
20 optimize operational set points and hours of operation of  
21 energy using systems.

22 (2) A 20-year measure life value shall be used for  
23 energy savings resulting from light emitting diode  
24 streetlights.

25 (3) A 25-year measure life value shall be used for  
26 energy savings resulting from energy efficiency measures

1 implemented in integrated whole-building new construction.

2 (k) Notwithstanding any provision of law to the contrary, a  
3 10-year measure life value shall be used for energy savings  
4 resulting from energy efficiency measures implemented for  
5 low-income households under subsection (c) of this Section.

6 (l) Notwithstanding any provision of law to the contrary,  
7 an electric utility subject to the requirements of this Section  
8 may file a tariff cancelling an automatic adjustment clause  
9 tariff in effect under this Section or Section 8-103, which  
10 shall take effect no later than one business day after the date  
11 such tariff is filed. Thereafter, the utility shall be  
12 authorized to defer and recover its expenses incurred under  
13 this Section through a new tariff authorized under subsection  
14 (d) of this Section or in the utility's next rate case under  
15 Article IX or Section 16-108.5 of this Act, with interest at an  
16 annual rate equal to the utility's weighted average cost of  
17 capital as approved by the Commission in such case. If the  
18 utility elects to file a new tariff under subsection (d) of  
19 this Section, the utility may file the tariff within 10 days  
20 after the effective date of this amendatory Act of the 99th  
21 General Assembly, and the cost inputs to such tariff shall be  
22 based on the projected costs to be incurred by the utility  
23 during the calendar year in which the new tariff is filed and  
24 that were not recovered under the tariff that was cancelled as  
25 provided for in this paragraph. Such costs shall include those  
26 incurred or to be incurred by the utility under its multi-year

1 plan approved under subsection (f) or (g) of this Section,  
2 including, but not limited to, projected capital investment  
3 costs and projected regulatory asset balances with  
4 correspondingly updated depreciation and amortization reserves  
5 and expense. The Commission shall, after notice and hearing,  
6 approve, or approve with modification, such tariff and cost  
7 inputs no later than 75 days after the utility filed the  
8 tariff, provided that such approval, or approval with  
9 modification, shall be consistent with the provisions of this  
10 Section to the extent they do not conflict with this subsection  
11 (l). The tariff approved by the Commission shall take effect no  
12 later than 5 days after the Commission enters its order  
13 approving the tariff.

14 No later than 60 days after the effective date of the  
15 tariff cancelling the utility's automatic adjustment clause  
16 tariff, the utility shall file a reconciliation that reconciles  
17 the moneys collected under its automatic adjustment clause  
18 tariff with the costs incurred during the period beginning June  
19 1, 2016 and ending on the date that the electric utility's  
20 automatic adjustment clause tariff was cancelled. In the event  
21 the reconciliation reflects an under-collection, the utility  
22 shall recover the costs as specified in this subsection (l). If  
23 the reconciliation reflects an over-collection, the utility  
24 shall apply the amount of such over-collection as a one-time  
25 credit to retail customers' bills.

1 (220 ILCS 5/8-104)

2 Sec. 8-104. Natural gas energy efficiency programs.

3 (a) It is the policy of the State that natural gas  
4 utilities and the Department of Commerce and Economic  
5 Opportunity are required to use cost-effective energy  
6 efficiency to reduce direct and indirect costs to consumers. It  
7 serves the public interest to allow natural gas utilities to  
8 recover costs for reasonably and prudently incurred expenses  
9 for cost-effective energy efficiency measures.

10 (b) For purposes of this Section, "energy efficiency" means  
11 measures that reduce the amount of energy required to achieve a  
12 given end use. "Energy efficiency" also includes measures that  
13 reduce the total Btus of electricity and natural gas needed to  
14 meet the end use or uses. "Cost-effective" means that the  
15 measures satisfy the total resource cost test which, for  
16 purposes of this Section, means a standard that is met if, for  
17 an investment in energy efficiency, the benefit-cost ratio is  
18 greater than one. The benefit-cost ratio is the ratio of the  
19 net present value of the total benefits of the measures to the  
20 net present value of the total costs as calculated over the  
21 lifetime of the measures. The total resource cost test compares  
22 the sum of avoided natural gas utility costs, representing the  
23 benefits that accrue to the system and the participant in the  
24 delivery of those efficiency measures, as well as other  
25 quantifiable societal benefits, including avoided electric  
26 utility costs, to the sum of all incremental costs of end use

1 measures (including both utility and participant  
2 contributions), plus costs to administer, deliver, and  
3 evaluate each demand-side measure, to quantify the net savings  
4 obtained by substituting demand-side measures for supply  
5 resources. In calculating avoided costs, reasonable estimates  
6 shall be included for financial costs likely to be imposed by  
7 future regulation of emissions of greenhouse gases. The  
8 low-income programs described in item (4) of subsection (f) of  
9 this Section shall not be required to meet the total resource  
10 cost test.

11 (c) Natural gas utilities shall implement cost-effective  
12 energy efficiency measures to meet at least the following  
13 natural gas savings requirements, which shall be based upon the  
14 total amount of gas delivered to retail customers, other than  
15 the customers described in subsection (m) of this Section,  
16 during calendar year 2009 multiplied by the applicable  
17 percentage. Natural gas utilities may comply with this Section  
18 by meeting the annual incremental savings goal in the  
19 applicable year or by showing that total cumulative annual  
20 savings within a multi-year ~~3-year~~ planning period associated  
21 with measures implemented after May 31, 2011 were equal to the  
22 sum of each annual incremental savings requirement from the  
23 first day of the multi-year planning period ~~May 31, 2011~~  
24 through the last day of the multi-year planning period ~~end of~~  
25 ~~the applicable year:~~

26 (1) 0.2% by May 31, 2012;

1 (2) an additional 0.4% by May 31, 2013, increasing  
2 total savings to .6%;

3 (3) an additional 0.6% by May 31, 2014, increasing  
4 total savings to 1.2%;

5 (4) an additional 0.8% by May 31, 2015, increasing  
6 total savings to 2.0%;

7 (5) an additional 1% by May 31, 2016, increasing total  
8 savings to 3.0%;

9 (6) an additional 1.2% by May 31, 2017, increasing  
10 total savings to 4.2%;

11 (7) an additional 1.4% in the year commencing January  
12 1, 2018 ~~by May 31, 2018, increasing total savings to 5.6%;~~

13 (8) an additional 1.5% in the year commencing January  
14 1, 2019 ~~by May 31, 2019, increasing total savings to 7.1%;~~

15 and

16 (9) an additional 1.5% in each 12-month period  
17 thereafter.

18 (d) Notwithstanding the requirements of subsection (c) of  
19 this Section, a natural gas utility shall limit the amount of  
20 energy efficiency implemented in any multi-year ~~3-year~~  
21 reporting period established by subsection (f) of Section 8-104  
22 of this Act, by an amount necessary to limit the estimated  
23 average increase in the amounts paid by retail customers in  
24 connection with natural gas service to no more than 2% in the  
25 applicable multi-year ~~3-year~~ reporting period. The energy  
26 savings requirements in subsection (c) of this Section may be

1 reduced by the Commission for the subject plan, if the utility  
2 demonstrates by substantial evidence that it is highly unlikely  
3 that the requirements could be achieved without exceeding the  
4 applicable spending limits in any multi-year ~~3-year~~ reporting  
5 period. No later than September 1, 2013, the Commission shall  
6 review the limitation on the amount of energy efficiency  
7 measures implemented pursuant to this Section and report to the  
8 General Assembly, in the report required by subsection (k) of  
9 this Section, its findings as to whether that limitation unduly  
10 constrains the procurement of energy efficiency measures.

11 (e) The provisions of this subsection (e) apply to those  
12 multi-year plans that commence prior to January 1, 2018 ~~Natural~~  
13 ~~gas utilities shall be responsible for overseeing the design,~~  
14 ~~development, and filing of their efficiency plans with the~~  
15 ~~Commission.~~ The utility shall utilize 75% of the available  
16 funding associated with energy efficiency programs approved by  
17 the Commission, and may outsource various aspects of program  
18 development and implementation. The remaining 25% of available  
19 funding shall be used by the Department of Commerce and  
20 Economic Opportunity to implement energy efficiency measures  
21 that achieve no less than 20% of the requirements of subsection  
22 (c) of this Section. Such measures shall be designed in  
23 conjunction with the utility and approved by the Commission.  
24 The Department may outsource development and implementation of  
25 energy efficiency measures. A minimum of 10% of the entire  
26 portfolio of cost-effective energy efficiency measures shall

1 be procured from local government, municipal corporations,  
2 school districts, and community college districts. Five  
3 percent of the entire portfolio of cost-effective energy  
4 efficiency measures may be granted to local government and  
5 municipal corporations for market transformation initiatives.  
6 The Department shall coordinate the implementation of these  
7 measures and shall integrate delivery of natural gas efficiency  
8 programs with electric efficiency programs delivered pursuant  
9 to Section 8-103 of this Act, unless the Department can show  
10 that integration is not feasible.

11 The apportionment of the dollars to cover the costs to  
12 implement the Department's share of the portfolio of energy  
13 efficiency measures shall be made to the Department once the  
14 Department has executed rebate agreements, grants, or  
15 contracts for energy efficiency measures and provided  
16 supporting documentation for those rebate agreements, grants,  
17 and contracts to the utility. The Department is authorized to  
18 adopt any rules necessary and prescribe procedures in order to  
19 ensure compliance by applicants in carrying out the purposes of  
20 rebate agreements for energy efficiency measures implemented  
21 by the Department made under this Section.

22 The details of the measures implemented by the Department  
23 shall be submitted by the Department to the Commission in  
24 connection with the utility's filing regarding the energy  
25 efficiency measures that the utility implements.

26 The portfolio of measures, administered by both the

1 utilities and the Department, shall, in combination, be  
2 designed to achieve the annual energy savings requirements set  
3 forth in subsection (c) of this Section, as modified by  
4 subsection (d) of this Section.

5 The utility and the Department shall agree upon a  
6 reasonable portfolio of measures and determine the measurable  
7 corresponding percentage of the savings goals associated with  
8 measures implemented by the Department.

9 No utility shall be assessed a penalty under subsection (f)  
10 of this Section for failure to make a timely filing if that  
11 failure is the result of a lack of agreement with the  
12 Department with respect to the allocation of responsibilities  
13 or related costs or target assignments. In that case, the  
14 Department and the utility shall file their respective plans  
15 with the Commission and the Commission shall determine an  
16 appropriate division of measures and programs that meets the  
17 requirements of this Section.

18 (e-5) The provisions of this subsection (e-5) shall be  
19 applicable to those multi-year plans that commence after  
20 December 31, 2017. Natural gas utilities shall be responsible  
21 for overseeing the design, development, and filing of their  
22 efficiency plans with the Commission and may outsource  
23 development and implementation of energy efficiency measures.  
24 A minimum of 10% of the entire portfolio of cost-effective  
25 energy efficiency measures shall be procured from local  
26 government, municipal corporations, school districts, and

1 community college districts. Five percent of the entire  
2 portfolio of cost-effective energy efficiency measures may be  
3 granted to local government and municipal corporations for  
4 market transformation initiatives.

5 The utilities shall also present a portfolio of energy  
6 efficiency measures proportionate to the share of total annual  
7 utility revenues in Illinois from households at or below 150%  
8 of the poverty level. Such programs shall be targeted to  
9 households with incomes at or below 80% of area median income.

10 (e-10) A utility providing approved energy efficiency  
11 measures in this State shall be permitted to recover costs of  
12 those measures through an automatic adjustment clause tariff  
13 filed with and approved by the Commission. The tariff shall be  
14 established outside the context of a general rate case and  
15 shall be applicable to the utility's customers other than the  
16 customers described in subsection (m) of this Section. Each  
17 year the Commission shall initiate a review to reconcile any  
18 amounts collected with the actual costs and to determine the  
19 required adjustment to the annual tariff factor to match annual  
20 expenditures.

21 (e-15) For those multi-year plans that commence prior to  
22 January 1, 2018, each ~~Each~~ utility shall include, in its  
23 recovery of costs, the costs estimated for both the utility's  
24 and the Department's implementation of energy efficiency  
25 measures. Costs collected by the utility for measures  
26 implemented by the Department shall be submitted to the

1 Department pursuant to Section 605-323 of the Civil  
2 Administrative Code of Illinois, shall be deposited into the  
3 Energy Efficiency Portfolio Standards Fund, and shall be used  
4 by the Department solely for the purpose of implementing these  
5 measures. A utility shall not be required to advance any moneys  
6 to the Department but only to forward such funds as it has  
7 collected. The Department shall report to the Commission on an  
8 annual basis regarding the costs actually incurred by the  
9 Department in the implementation of the measures. Any changes  
10 to the costs of energy efficiency measures as a result of plan  
11 modifications shall be appropriately reflected in amounts  
12 recovered by the utility and turned over to the Department.

13 ~~The portfolio of measures, administered by both the~~  
14 ~~utilities and the Department, shall, in combination, be~~  
15 ~~designed to achieve the annual energy savings requirements set~~  
16 ~~forth in subsection (c) of this Section, as modified by~~  
17 ~~subsection (d) of this Section.~~

18 ~~The utility and the Department shall agree upon a~~  
19 ~~reasonable portfolio of measures and determine the measurable~~  
20 ~~corresponding percentage of the savings goals associated with~~  
21 ~~measures implemented by the Department.~~

22 ~~No utility shall be assessed a penalty under subsection (f)~~  
23 ~~of this Section for failure to make a timely filing if that~~  
24 ~~failure is the result of a lack of agreement with the~~  
25 ~~Department with respect to the allocation of responsibilities~~  
26 ~~or related costs or target assignments. In that case, the~~

1 ~~Department and the utility shall file their respective plans~~  
2 ~~with the Commission and the Commission shall determine an~~  
3 ~~appropriate division of measures and programs that meets the~~  
4 ~~requirements of this Section.~~

5 ~~If the Department is unable to meet performance~~  
6 ~~requirements for the portion of the portfolio implemented by~~  
7 ~~the Department, then the utility and the Department shall~~  
8 ~~jointly submit a modified filing to the Commission explaining~~  
9 ~~the performance shortfall and recommending an appropriate~~  
10 ~~course going forward, including any program modifications that~~  
11 ~~may be appropriate in light of the evaluations conducted under~~  
12 ~~item (8) of subsection (f) of this Section. In this case, the~~  
13 ~~utility obligation to collect the Department's costs and turn~~  
14 ~~over those funds to the Department under this subsection (e)~~  
15 ~~shall continue only if the Commission approves the~~  
16 ~~modifications to the plan proposed by the Department.~~

17 (f) No later than October 1, 2010, each gas utility shall  
18 file an energy efficiency plan with the Commission to meet the  
19 energy efficiency standards through May 31, 2014. No later than  
20 October 1, 2013, each gas utility shall file an energy  
21 efficiency plan with the Commission to meet the energy  
22 efficiency standards through May 31, 2017. Beginning in 2017  
23 and every 4 ~~Every 3~~ years thereafter, each utility shall file,  
24 ~~no later than October 1,~~ an energy efficiency plan with the  
25 Commission to meet the energy efficiency standards for the next  
26 applicable 4-year period beginning January 1 of the year

1 following the filing. For those multi-year plans commencing on  
2 January 1, 2018, each utility shall file its proposed energy  
3 efficiency plan no later than 30 days after the effective date  
4 of this amendatory Act of the 99th General Assembly or May 1,  
5 2017, whichever is later. Beginning in 2021 and every 4 years  
6 thereafter, each utility shall file its energy efficiency plan  
7 no later than March 1. If a utility does not file such a plan on  
8 or before the applicable filing deadline for the plan by  
9 October 1 of the applicable year, then it shall face a penalty  
10 of \$100,000 per day until the plan is filed.

11 Each utility's plan shall set forth the utility's proposals  
12 to meet the utility's portion of the energy efficiency  
13 standards identified in subsection (c) of this Section, as  
14 modified by subsection (d) of this Section, taking into account  
15 the unique circumstances of the utility's service territory.  
16 For those plans commencing after December 31, 2021, the ~~The~~  
17 Commission shall seek public comment on the utility's plan and  
18 shall issue an order approving or disapproving each plan within  
19 6 months after its submission. For those plans commencing on  
20 January 1, 2018, the Commission shall seek public comment on  
21 the utility's plan and shall issue an order approving or  
22 disapproving each plan no later than August 31, 2017. If the  
23 Commission disapproves a plan, the Commission shall, within 30  
24 days, describe in detail the reasons for the disapproval and  
25 describe a path by which the utility may file a revised draft  
26 of the plan to address the Commission's concerns

1 satisfactorily. If the utility does not refile with the  
2 Commission within 60 days after the disapproval, the utility  
3 shall be subject to penalties at a rate of \$100,000 per day  
4 until the plan is filed. This process shall continue, and  
5 penalties shall accrue, until the utility has successfully  
6 filed a portfolio of energy efficiency measures. Penalties  
7 shall be deposited into the Energy Efficiency Trust Fund and  
8 the cost of any such penalties may not be recovered from  
9 ratepayers. In submitting proposed energy efficiency plans and  
10 funding levels to meet the savings goals adopted by this Act  
11 the utility shall:

12 (1) Demonstrate that its proposed energy efficiency  
13 measures will achieve the requirements that are identified  
14 in subsection (c) of this Section, as modified by  
15 subsection (d) of this Section.

16 (2) Present specific proposals to implement new  
17 building and appliance standards that have been placed into  
18 effect.

19 (3) Present estimates of the total amount paid for gas  
20 service expressed on a per therm basis associated with the  
21 proposed portfolio of measures designed to meet the  
22 requirements that are identified in subsection (c) of this  
23 Section, as modified by subsection (d) of this Section.

24 (4) For those multi-year plans that commence prior to  
25 January 1, 2018, coordinate ~~Coordinate~~ with the Department  
26 to present a portfolio of energy efficiency measures

1 proportionate to the share of total annual utility revenues  
2 in Illinois from households at or below 150% of the poverty  
3 level. Such programs shall be targeted to households with  
4 incomes at or below 80% of area median income.

5 (5) Demonstrate that its overall portfolio of energy  
6 efficiency measures, not including low-income programs  
7 described in ~~covered by~~ item (4) of this subsection (f) and  
8 subsection (e-5) of this Section, are cost-effective using  
9 the total resource cost test and represent a diverse cross  
10 section of opportunities for customers of all rate classes  
11 to participate in the programs.

12 (6) Demonstrate that a gas utility affiliated with an  
13 electric utility that is required to comply with Section  
14 8-103 or 8-103B of this Act has integrated gas and electric  
15 efficiency measures into a single program that reduces  
16 program or participant costs and appropriately allocates  
17 costs to gas and electric ratepayers. For those multi-year  
18 plans that commence prior to January 1, 2018, the ~~The~~  
19 Department shall integrate all gas and electric programs it  
20 delivers in any such utilities' service territories,  
21 unless the Department can show that integration is not  
22 feasible or appropriate.

23 (7) Include a proposed cost recovery tariff mechanism  
24 to fund the proposed energy efficiency measures and to  
25 ensure the recovery of the prudently and reasonably  
26 incurred costs of Commission-approved programs.

1           (8) Provide for quarterly status reports tracking  
2           implementation of and expenditures for the utility's  
3           portfolio of measures and, if applicable, the Department's  
4           portfolio of measures, an annual independent review, and a  
5           full independent evaluation of the multi-year ~~3-year~~  
6           results of the performance and the cost-effectiveness of  
7           the utility's and, if applicable, Department's portfolios  
8           of measures and broader net program impacts and, to the  
9           extent practical, for adjustment of the measures on a going  
10          forward basis as a result of the evaluations. The resources  
11          dedicated to evaluation shall not exceed 3% of portfolio  
12          resources in any given multi-year ~~3-year~~ period.

13          (g) No more than 3% of expenditures on energy efficiency  
14          measures may be allocated for demonstration of breakthrough  
15          equipment and devices.

16          (h) Illinois natural gas utilities that are affiliated by  
17          virtue of a common parent company may, at the utilities'  
18          request, be considered a single natural gas utility for  
19          purposes of complying with this Section.

20          (i) If, after 3 years, a gas utility fails to meet the  
21          efficiency standard specified in subsection (c) of this Section  
22          as modified by subsection (d), then it shall make a  
23          contribution to the Low-Income Home Energy Assistance Program.  
24          The total liability for failure to meet the goal shall be  
25          assessed as follows:

26                 (1) a large gas utility shall pay \$600,000;

1 (2) a medium gas utility shall pay \$400,000; and

2 (3) a small gas utility shall pay \$200,000.

3 For purposes of this Section, (i) a "large gas utility" is  
4 a gas utility that on December 31, 2008, served more than  
5 1,500,000 gas customers in Illinois; (ii) a "medium gas  
6 utility" is a gas utility that on December 31, 2008, served  
7 fewer than 1,500,000, but more than 500,000 gas customers in  
8 Illinois; and (iii) a "small gas utility" is a gas utility that  
9 on December 31, 2008, served fewer than 500,000 and more than  
10 100,000 gas customers in Illinois. The costs of this  
11 contribution may not be recovered from ratepayers.

12 If a gas utility fails to meet the efficiency standard  
13 specified in subsection (c) of this Section, as modified by  
14 subsection (d) of this Section, in any 2 consecutive multi-year  
15 ~~3-year~~ planning periods, then the responsibility for  
16 implementing the utility's energy efficiency measures shall be  
17 transferred to an independent program administrator selected  
18 by the Commission. Reasonable and prudent costs incurred by the  
19 independent program administrator to meet the efficiency  
20 standard specified in subsection (c) of this Section, as  
21 modified by subsection (d) of this Section, may be recovered  
22 from the customers of the affected gas utilities, other than  
23 customers described in subsection (m) of this Section. The  
24 utility shall provide the independent program administrator  
25 with all information and assistance necessary to perform the  
26 program administrator's duties including but not limited to

1 customer, account, and energy usage data, and shall allow the  
2 program administrator to include inserts in customer bills. The  
3 utility may recover reasonable costs associated with any such  
4 assistance.

5 (j) No utility shall be deemed to have failed to meet the  
6 energy efficiency standards to the extent any such failure is  
7 due to a failure of the Department.

8 (k) Not later than January 1, 2012, the Commission shall  
9 develop and solicit public comment on a plan to foster  
10 statewide coordination and consistency between statutorily  
11 mandated natural gas and electric energy efficiency programs to  
12 reduce program or participant costs or to improve program  
13 performance. Not later than September 1, 2013, the Commission  
14 shall issue a report to the General Assembly containing its  
15 findings and recommendations.

16 (l) This Section does not apply to a gas utility that on  
17 January 1, 2009, provided gas service to fewer than 100,000  
18 customers in Illinois.

19 (m) Subsections (a) through (k) of this Section do not  
20 apply to customers of a natural gas utility that have a North  
21 American Industry Classification System code number that is  
22 22111 or any such code number beginning with the digits 31, 32,  
23 or 33 and (i) annual usage in the aggregate of 4 million therms  
24 or more within the service territory of the affected gas  
25 utility or with aggregate usage of 8 million therms or more in  
26 this State and complying with the provisions of item (l) of

1 this subsection (m); or (ii) using natural gas as feedstock and  
2 meeting the usage requirements described in item (i) of this  
3 subsection (m), to the extent such annual feedstock usage is  
4 greater than 60% of the customer's total annual usage of  
5 natural gas.

6 (1) Customers described in this subsection (m) of this  
7 Section shall apply, on a form approved on or before  
8 October 1, 2009 by the Department, to the Department to be  
9 designated as a self-directing customer ("SDC") or as an  
10 exempt customer using natural gas as a feedstock from which  
11 other products are made, including, but not limited to,  
12 feedstock for a hydrogen plant, on or before the 1st day of  
13 February, 2010. Thereafter, application may be made not  
14 less than 6 months before the filing date of the gas  
15 utility energy efficiency plan described in subsection (f)  
16 of this Section; however, a new customer that commences  
17 taking service from a natural gas utility after February 1,  
18 2010 may apply to become a SDC or exempt customer up to 30  
19 days after beginning service. Customers described in this  
20 subsection (m) that have not already been approved by the  
21 Department may apply to be designated a self-directing  
22 customer or exempt customer, on a form approved by the  
23 Department, between September 1, 2013 and September 30,  
24 2013. Customer applications that are approved by the  
25 Department under this amendatory Act of the 98th General  
26 Assembly shall be considered to be a self-directing

1 customer or exempt customer, as applicable, for the current  
2 3-year planning period effective December 1, 2013. Such  
3 application shall contain the following:

4 (A) the customer's certification that, at the time  
5 of its application, it qualifies to be a SDC or exempt  
6 customer described in this subsection (m) of this  
7 Section;

8 (B) in the case of a SDC, the customer's  
9 certification that it has established or will  
10 establish by the beginning of the utility's multi-year  
11 ~~3-year~~ planning period commencing subsequent to the  
12 application, and will maintain for accounting  
13 purposes, an energy efficiency reserve account and  
14 that the customer will accrue funds in said account to  
15 be held for the purpose of funding, in whole or in  
16 part, energy efficiency measures of the customer's  
17 choosing, which may include, but are not limited to,  
18 projects involving combined heat and power systems  
19 that use the same energy source both for the generation  
20 of electrical or mechanical power and the production of  
21 steam or another form of useful thermal energy or the  
22 use of combustible gas produced from biomass, or both;

23 (C) in the case of a SDC, the customer's  
24 certification that annual funding levels for the  
25 energy efficiency reserve account will be equal to 2%  
26 of the customer's cost of natural gas, composed of the

1 customer's commodity cost and the delivery service  
2 charges paid to the gas utility, or \$150,000, whichever  
3 is less;

4 (D) in the case of a SDC, the customer's  
5 certification that the required reserve account  
6 balance will be capped at 3 years' worth of accruals  
7 and that the customer may, at its option, make further  
8 deposits to the account to the extent such deposit  
9 would increase the reserve account balance above the  
10 designated cap level;

11 (E) in the case of a SDC, the customer's  
12 certification that by October 1 of each year, beginning  
13 no sooner than October 1, 2012, the customer will  
14 report to the Department information, for the 12-month  
15 period ending May 31 of the same year, on all deposits  
16 and reductions, if any, to the reserve account during  
17 the reporting year, and to the extent deposits to the  
18 reserve account in any year are in an amount less than  
19 \$150,000, the basis for such reduced deposits; reserve  
20 account balances by month; a description of energy  
21 efficiency measures undertaken by the customer and  
22 paid for in whole or in part with funds from the  
23 reserve account; an estimate of the energy saved, or to  
24 be saved, by the measure; and that the report shall  
25 include a verification by an officer or plant manager  
26 of the customer or by a registered professional

1 engineer or certified energy efficiency trade  
2 professional that the funds withdrawn from the reserve  
3 account were used for the energy efficiency measures;

4 (F) in the case of an exempt customer, the  
5 customer's certification of the level of gas usage as  
6 feedstock in the customer's operation in a typical year  
7 and that it will provide information establishing this  
8 level, upon request of the Department;

9 (G) in the case of either an exempt customer or a  
10 SDC, the customer's certification that it has provided  
11 the gas utility or utilities serving the customer with  
12 a copy of the application as filed with the Department;

13 (H) in the case of either an exempt customer or a  
14 SDC, certification of the natural gas utility or  
15 utilities serving the customer in Illinois including  
16 the natural gas utility accounts that are the subject  
17 of the application; and

18 (I) in the case of either an exempt customer or a  
19 SDC, a verification signed by a plant manager or an  
20 authorized corporate officer attesting to the  
21 truthfulness and accuracy of the information contained  
22 in the application.

23 (2) The Department shall review the application to  
24 determine that it contains the information described in  
25 provisions (A) through (I) of item (1) of this subsection  
26 (m), as applicable. The review shall be completed within 30

1 days after the date the application is filed with the  
2 Department. Absent a determination by the Department  
3 within the 30-day period, the applicant shall be considered  
4 to be a SDC or exempt customer, as applicable, for all  
5 subsequent multi-year ~~3-year~~ planning periods, as of the  
6 date of filing the application described in this subsection  
7 (m). If the Department determines that the application does  
8 not contain the applicable information described in  
9 provisions (A) through (I) of item (1) of this subsection  
10 (m), it shall notify the customer, in writing, of its  
11 determination that the application does not contain the  
12 required information and identify the information that is  
13 missing, and the customer shall provide the missing  
14 information within 15 working days after the date of  
15 receipt of the Department's notification.

16 (3) The Department shall have the right to audit the  
17 information provided in the customer's application and  
18 annual reports to ensure continued compliance with the  
19 requirements of this subsection. Based on the audit, if the  
20 Department determines the customer is no longer in  
21 compliance with the requirements of items (A) through (I)  
22 of item (1) of this subsection (m), as applicable, the  
23 Department shall notify the customer in writing of the  
24 noncompliance. The customer shall have 30 days to establish  
25 its compliance, and failing to do so, may have its status  
26 as a SDC or exempt customer revoked by the Department. The

1 Department shall treat all information provided by any  
2 customer seeking SDC status or exemption from the  
3 provisions of this Section as strictly confidential.

4 (4) Upon request, or on its own motion, the Commission  
5 may open an investigation, no more than once every 3 years  
6 and not before October 1, 2014, to evaluate the  
7 effectiveness of the self-directing program described in  
8 this subsection (m).

9 Customers described in this subsection (m) that applied to  
10 the Department on January 3, 2013, were approved by the  
11 Department on February 13, 2013 to be a self-directing customer  
12 or exempt customer, and receive natural gas from a utility that  
13 provides gas service to at least 500,000 retail customers in  
14 Illinois and electric service to at least 1,000,000 retail  
15 customers in Illinois shall be considered to be a  
16 self-directing customer or exempt customer, as applicable, for  
17 the current 3-year planning period effective December 1, 2013.

18 (n) The applicability of this Section to customers  
19 described in subsection (m) of this Section is conditioned on  
20 the existence of the SDC program. In no event will any  
21 provision of this Section apply to such customers after January  
22 1, 2020.

23 (o) Utilities' 3-year energy efficiency plans approved by  
24 the Commission on or before the effective date of this  
25 amendatory Act of the 99th General Assembly for the period June  
26 1, 2014 through May 31, 2017 shall continue to be in force and

1 effect through December 31, 2017 so that the energy efficiency  
2 programs set forth in those plans continue to be offered during  
3 the period June 1, 2017 through December 31, 2017. Each utility  
4 is authorized to increase, on a pro rata basis, the energy  
5 savings goals and budgets approved in its plan to reflect the  
6 additional 7 months of the plan's operation.

7 (Source: P.A. 97-813, eff. 7-13-12; 97-841, eff. 7-20-12;  
8 98-90, eff. 7-15-13; 98-225, eff. 8-9-13; 98-604, eff.  
9 12-17-13.)

10 (220 ILCS 5/9-105 new)

11 Sec. 9-105. Demand-based delivery services charge.

12 (a) Beginning with the January 2019 monthly billing period  
13 for an electric utility that serves more than 3,000,000 retail  
14 customers in the State and beginning with the January 2021  
15 monthly billing period for an electric utility that serves  
16 3,000,000 or less retail customers but more than 500,000 retail  
17 customers in the State, such utility may recover its costs of  
18 providing delivery services to retail customers through a  
19 charge based on kilowatts of demand. A utility that elects to  
20 recover its costs as provided in this Section shall file its  
21 tariffs pursuant to Section 9-201 of this Act, provided that a  
22 participating utility as defined in Section 16-108.5 of this  
23 Act shall file such tariffs pursuant to subsection (e) of  
24 Section 16-108.5.

25 (b) Tariffs filed by a utility under subsection (a) of this

1 Section shall be subject to the following provisions:

2 (1) The categories of costs being recovered through a  
3 fixed charge on the effective date of this amendatory Act  
4 of the 99th General Assembly shall continue to be recovered  
5 through a fixed charge; however, this paragraph (1) shall  
6 not limit the consideration and inclusion of additional  
7 cost components to be recovered through a fixed charge.

8 (2) The categories of costs being recovered through  
9 riders or automatic adjustment clause tariffs on the  
10 effective date of this amendatory Act of the 99th General  
11 Assembly and add-on taxes and other separately-stated  
12 charges or adjustments may, at the utility's election,  
13 continue to be recovered in the manner they are being  
14 collected, provided that nothing in this paragraph (2)  
15 shall prohibit addition or elimination of a rider or an  
16 automatic adjustment clause tariff or preclude the utility  
17 from revising those riders or automatic adjustment clause  
18 tariffs, pursuant to this Article IX or any applicable  
19 provisions of this Act, regardless of whether such riders  
20 or automatic adjustment clause tariffs assess charges on a  
21 kilowatt-hour or kilowatt basis.

22 (3) Taxes assessed on a kilowatt-hour basis shall  
23 continue to be recovered on a kilowatt-hour basis.

24 (4) The costs of providing delivery services to those  
25 retail customers subject to the tariff that are not  
26 recovered under paragraphs (1) through (3) of this

1        subsection (b) shall be recovered through a charge based on  
2        kilowatts of demand, and the tariffs shall be designed to  
3        allocate costs to the cost causer generally based on the  
4        demands that customers place on the utility's systems.

5        (5) For purposes of this Section, the kilowatts of  
6        demand for each residential customer of an electric utility  
7        that serves more than 3,000,000 retail customers in the  
8        State shall be calculated based on the maximum kilowatts  
9        delivered to the customer during a 30-minute interval over  
10       a 16-hour period beginning at 6 a.m. and ending at 10 p.m.  
11       Central Prevailing Time on a non-holiday weekday during the  
12       monthly billing period or periods for which the bill is  
13       rendered; the kilowatts of demand for each residential  
14       customer of an electric utility that serves 3,000,000 or  
15       less retail customers but more than 500,000 retail  
16       customers in the State shall be calculated based on the  
17       maximum kilowatts delivered to the customer during a  
18       60-minute interval over a 16-hour period beginning at 6  
19       a.m. and ending at 10 p.m. Central Prevailing Time on a  
20       non-holiday weekday during the monthly billing period or  
21       periods for which the bill is rendered. For purposes of  
22       this Section, 30-minute intervals shall begin on the hour  
23       and 30 minutes past the hour and 60-minute intervals shall  
24       begin on the hour. An electric utility may elect to  
25       estimate retail customers' kilowatt demands if the  
26       interval data necessary to determine such customers'

1       kilowatt demands is not available.

2       (c) An electric utility that elects to recover its costs of  
3 providing delivery services to retail customers pursuant to  
4 subsection (a) of this Section shall notify the Commission of  
5 its election to do so no later than 20 months before the tariff  
6 to recover such costs would take effect under this Section. An  
7 electric utility that makes such election shall also be subject  
8 to the following provisions, as applicable:

9           (1) If the utility elects to recover, pursuant to this  
10 Section, its costs of providing delivery services to  
11 residential retail customers, then the utility shall also  
12 file a tariff that limits the amount of the delivery  
13 services revenue requirement that is allocated to be  
14 recovered from such customers through the customer charge  
15 to no more than 14% on average among residential retail  
16 customers. The tariff shall take effect at the same time  
17 the utility's tariff authorized by subsection (a) of this  
18 Section takes effect.

19           (2) If the utility elects to recover, pursuant to this  
20 Section, its costs of providing delivery services to  
21 eligible retail customers, as defined by Section 16-111.5  
22 of this Act, then the utility shall also offer a  
23 market-based, time-of-use rate for eligible retail  
24 customers that choose to take power and energy supply  
25 service from the utility. The utility shall file its  
26 time-of-use rate tariff no later than 120 days after its

1 demand-based rates applicable to such customers take  
2 effect pursuant to subsection (a) of this Section.

3 (3) Beginning with the year in which a utility elects  
4 to recover, pursuant to this Section, its costs of  
5 providing delivery services to such eligible retail  
6 customers, the utility shall spend \$15,000,000 over 3 years  
7 in customer education and outreach efforts designed to  
8 inform eligible retail customers about the rate design  
9 changes to be implemented pursuant to this Section and to  
10 empower such customers regarding how to respond to the new  
11 rate design. The investment shall be a recoverable expense.

12 (4) If the electric utility also has a  
13 performance-based formula rate in effect pursuant to  
14 Section 16-108.5 of this Act, then the utility shall be  
15 permitted to revise the formula rate and schedules to  
16 reduce the 50 basis point values to zero that would  
17 otherwise apply under paragraph (5) of subsection (c) of  
18 Section 16-108.5 of this Act. If the utility no longer has  
19 a performance-based formula rate in effect pursuant to  
20 Section 16-108.5 of this Act, then the utility shall be  
21 permitted to implement the revenue balancing adjustment  
22 tariff described in Section 9-107 of this Act.

23 (220 ILCS 5/9-107 new)

24 Sec. 9-107. Revenue balancing adjustment tariff.

25 (a) In this Section:

1       "Reconciliation period" means a period beginning with the  
2 January monthly billing period and extending through the  
3 December monthly billing period.

4       "Rate case reconciliation revenue requirement" means the  
5 final distribution revenue requirement or requirements  
6 approved by the Commission in the utility's rate case or  
7 formula rate proceeding to set the rates initially applicable  
8 in the relevant reconciliation period after the conclusion of  
9 the period. In the event the Commission has approved more than  
10 one revenue requirement for the reconciliation period, the  
11 amount of rate case revenue under each approved revenue  
12 requirement shall be prorated based upon the number of days  
13 under which each revenue requirement was in effect.

14       (b) An electric utility that is authorized under paragraph  
15 (4) of subsection (c) of Section 9-105 of this Act to implement  
16 a revenue balancing adjustment tariff under this Section  
17 because the utility no longer has a performance-based formula  
18 rate in effect pursuant to Section 16-108.5 of this Act, may  
19 file the tariff for the purpose of preventing undercollections  
20 or overcollections of distribution revenues as compared to the  
21 revenue requirement or requirements approved by the Commission  
22 on which the rates giving rise to those revenues were based.  
23 The tariff shall calculate an annual adjustment that reflects  
24 any difference between the actual delivery service revenue  
25 collected for services provided during the relevant  
26 reconciliation period and the rate case reconciliation revenue

1 requirement for the relevant reconciliation period and shall  
2 set forth the reconciliation categories or classes, or a  
3 combination of both, in a manner determined at the utility's  
4 discretion.

5 (c) A utility that elects to file the tariff authorized by  
6 this Section shall file the tariff outside the context of a  
7 general rate case or formula rate proceeding, and the  
8 Commission shall, after notice and hearing, approve the tariff  
9 or approve with modification no later than 120 days after the  
10 utility files the tariff, and the tariff shall remain in effect  
11 at the discretion of the utility. The tariff shall also require  
12 that the electric utility submit an annual revenue balancing  
13 reconciliation report to the Commission reflecting the  
14 difference between the actual delivery service revenue and rate  
15 case revenue for the applicable reconciliation and identifying  
16 the charges or credits to be applied thereafter. The annual  
17 revenue balancing reconciliation report shall be filed with the  
18 Commission no later than March 20 of the year following a  
19 reconciliation period. The Commission may initiate a review of  
20 the revenue balancing reconciliation report each year to  
21 determine if any subsequent adjustment is necessary to align  
22 actual delivery service revenue and rate case revenue. In the  
23 event the Commission elects to initiate such review, the  
24 Commission shall, after notice and hearing, enter an order  
25 approving, or approving as modified, such revenue balancing  
26 reconciliation report no later than 120 days after the utility

1 files its report with the Commission. If the Commission does  
2 not initiate such review, the revenue balancing reconciliation  
3 report and the identified charges or credits shall be deemed  
4 accepted and approved 120 days after the utility files the  
5 report and shall not be subject to review in any other  
6 proceeding.

7 (220 ILCS 5/16-103.3 new)

8 Sec. 16-103.3. Unbundling of charges related to  
9 electricity supply and regional transmission organization  
10 services. Beginning with the January 2019 monthly billing  
11 period, an electric utility that provides electric service to  
12 more than 3,000,000 retail customers in the State shall  
13 restructure its retail electricity supply charges applicable  
14 to eligible retail customers, as defined by Section 16-111.5 of  
15 this Act, for whom the electric utility procures electric power  
16 and energy pursuant to Section 1-75 of the Illinois Power  
17 Agency Act and Section 16-111.5 of this Act. The restructuring  
18 shall allocate to these customers, and separately state, the  
19 following: the costs of electric capacity, costs of  
20 transmission services, and charges for network integration  
21 transmission service, transmission enhancement, and locational  
22 reliability, as these terms are defined in the PJM  
23 Interconnection Open Access Transmission Tariff on March 1,  
24 2016. In the event the Open Access Transmission Tariff  
25 subsequently renames those terms, the services reflected under

1 those terms shall continue to be subject to the restructuring  
2 described in this Section.

3 It is the intent of this Section that eligible retail  
4 customers taking electricity supply service from an electric  
5 utility that provides electric service to more than 3,000,000  
6 retail customers in the State pay charges for the electricity  
7 supply and regional transmission organization-related services  
8 costs that generally reflect the manner in which the associated  
9 costs are incurred.

10 (220 ILCS 5/16-107)

11 Sec. 16-107. Real-time pricing.

12 (a) Each electric utility shall file, on or before May 1,  
13 1998, a tariff or tariffs which allow nonresidential retail  
14 customers in the electric utility's service area to elect  
15 real-time pricing beginning October 1, 1998.

16 (b) Each electric utility shall file, on or before May 1,  
17 2000, a tariff or tariffs which allow residential retail  
18 customers in the electric utility's service area to elect  
19 real-time pricing beginning October 1, 2000.

20 (b-5) Each electric utility shall file a tariff or tariffs  
21 allowing residential retail customers in the electric  
22 utility's service area to elect real-time pricing beginning  
23 January 2, 2007. The Commission may, after notice and hearing,  
24 approve the tariff or tariffs. A customer who elects real time  
25 pricing shall remain on such rate for a minimum of 12 months.

1 ~~The Commission may, after notice and hearing, approve the~~  
2 ~~tariff or tariffs, provided that the Commission finds that the~~  
3 ~~potential for demand reductions will result in net economic~~  
4 ~~benefits to all residential customers of the electric utility.~~  
5 ~~In examining economic benefits from demand reductions, the~~  
6 ~~Commission shall, at a minimum, consider the following:~~  
7 ~~improvements to system reliability and power quality,~~  
8 ~~reduction in wholesale market prices and price volatility,~~  
9 ~~electric utility cost avoidance and reductions, market power~~  
10 ~~mitigation, and other benefits of demand reductions, but only~~  
11 ~~to the extent that the effects of reduced demand can be~~  
12 ~~demonstrated to lower the cost of electricity delivered to~~  
13 ~~residential customers.~~ A tariff or tariffs approved pursuant to  
14 this subsection (b-5) shall, at a minimum, describe (i) the  
15 methodology for determining the market price of energy to be  
16 reflected in the real-time rate and (ii) the manner in which  
17 customers who elect real-time pricing will be provided with  
18 ready access to hourly market prices, including, but not  
19 limited to, day-ahead hourly energy prices. A customer who  
20 elects real-time pricing pursuant to a tariff approved under  
21 this subsection (b-5) and thereafter terminates the election  
22 shall not return to taking service under the tariff for a  
23 period of 12 months following the date on which the customer  
24 terminated real-time pricing. However, this limitation shall  
25 cease to apply on such date that the provision of electric  
26 power and energy is declared competitive under Section 16-113

1 of this Act for the customer group or groups to which this  
2 subsection (b-5) applies.

3 A proceeding under this subsection (b-5) may not exceed 120  
4 days in length.

5 (b-10) Each electric utility providing real-time pricing  
6 pursuant to subsection (b-5) shall install a meter capable of  
7 recording hourly interval energy use at the service location of  
8 each customer that elects real-time pricing pursuant to this  
9 subsection.

10 (b-15) If the Commission issues an order pursuant to  
11 subsection (b-5), the affected electric utility shall contract  
12 with an entity not affiliated with the electric utility to  
13 serve as a program administrator to develop and implement a  
14 program to provide consumer outreach, enrollment, and  
15 education concerning real-time pricing and to establish and  
16 administer an information system and technical and other  
17 customer assistance that is necessary to enable customers to  
18 manage electricity use. The program administrator: (i) shall be  
19 selected and compensated by the electric utility, subject to  
20 Commission approval; (ii) shall have demonstrated technical  
21 and managerial competence in the development and  
22 administration of demand management programs; and (iii) may  
23 develop and implement risk management, energy efficiency, and  
24 other services related to energy use management for which the  
25 program administrator shall be compensated by participants in  
26 the program receiving such services. The electric utility shall

1 provide the program administrator with all information and  
2 assistance necessary to perform the program administrator's  
3 duties, including, but not limited to, customer, account, and  
4 energy use data. The electric utility shall permit the program  
5 administrator to include inserts in residential customer bills  
6 2 times per year to assist with customer outreach and  
7 enrollment.

8 The program administrator shall submit an annual report to  
9 the electric utility no later than April 1 of each year  
10 describing the operation and results of the program, including  
11 information concerning the number and types of customers using  
12 real-time pricing, changes in customers' energy use patterns,  
13 an assessment of the value of the program to both participants  
14 and non-participants, and recommendations concerning  
15 modification of the program and the tariff or tariffs filed  
16 under subsection (b-5). This report shall be filed by the  
17 electric utility with the Commission within 30 days of receipt  
18 and shall be available to the public on the Commission's web  
19 site.

20 (b-20) The Commission shall monitor the performance of  
21 programs established pursuant to subsection (b-15) and shall  
22 order the termination or modification of a program if it  
23 determines that the program is not, after a reasonable period  
24 of time for development not to exceed 4 years, resulting in net  
25 benefits to the residential customers of the electric utility.

26 (b-25) An electric utility shall be entitled to recover

1 reasonable costs incurred in complying with this Section,  
2 provided that recovery of the costs is fairly apportioned among  
3 its residential customers as provided in this subsection  
4 (b-25). The electric utility may apportion ~~greater~~ costs on the  
5 residential customers who elect real-time pricing, but may also  
6 impose some of the costs of real-time pricing on customers who  
7 do not elect real-time pricing, ~~provided that the Commission~~  
8 ~~determines that the cost savings resulting from real time~~  
9 ~~pricing will exceed the costs imposed on customers for~~  
10 ~~maintaining the program.~~

11 (c) The electric utility's tariff or tariffs filed pursuant  
12 to this Section shall be subject to Article IX.

13 (d) This Section does not apply to any electric utility  
14 providing service to 100,000 or fewer customers.

15 (Source: P.A. 94-977, eff. 6-30-06.)

16 (220 ILCS 5/16-107.5)

17 Sec. 16-107.5. Net electricity metering.

18 (a) The Legislature finds and declares that a program to  
19 provide net electricity metering, as defined in this Section,  
20 for eligible customers can encourage private investment in  
21 renewable energy resources, stimulate economic growth, enhance  
22 the continued diversification of Illinois' energy resource  
23 mix, and protect the Illinois environment.

24 (b) As used in this Section, (i) "eligible customer" means  
25 a retail customer that owns or operates a solar, wind, or other

1 eligible renewable electrical generating facility with a rated  
2 capacity of not more than 2,000 kilowatts that is located on  
3 the customer's premises and is intended primarily to offset the  
4 customer's own electrical requirements; (ii) "electricity  
5 provider" means an electric utility or alternative retail  
6 electric supplier; (iii) "eligible renewable electrical  
7 generating facility" means a generator powered by solar  
8 electric energy, wind, dedicated crops grown for electricity  
9 generation, agricultural residues, untreated and unadulterated  
10 wood waste, landscape trimmings, livestock manure, anaerobic  
11 digestion of livestock or food processing waste, fuel cells or  
12 microturbines powered by renewable fuels, or hydroelectric  
13 energy; and (iv) "net electricity metering" (or "net metering")  
14 means the measurement, during the billing period applicable to  
15 an eligible customer, of the net amount of electricity supplied  
16 by an electricity provider to the customer's premises or  
17 provided to the electricity provider by the customer.

18 (c) A net metering facility shall be equipped with metering  
19 equipment that can measure the flow of electricity in both  
20 directions at the same rate.

21 (1) For eligible customers whose electric service has  
22 not been declared competitive pursuant to Section 16-113 of  
23 this Act as of July 1, 2011 and whose electric delivery  
24 service is provided and measured on a kilowatt-hour basis  
25 and electric supply service is not provided based on hourly  
26 pricing, this shall typically be accomplished through use

1 of a single, bi-directional meter. ~~If the eligible~~  
2 ~~customer's existing electric revenue meter does not meet~~  
3 ~~this requirement, the electricity provider shall arrange~~  
4 ~~for the local electric utility or a meter service provider~~  
5 ~~to install and maintain a new revenue meter at the~~  
6 ~~electricity provider's expense.~~

7 (2) For eligible customers whose electric service has  
8 not been declared competitive pursuant to Section 16-113 of  
9 this Act as of July 1, 2011 and whose electric delivery  
10 service is provided and measured on a kilowatt demand basis  
11 and electric supply service is not provided based on hourly  
12 pricing, this shall typically be accomplished through use  
13 of a dual channel meter capable of measuring the flow of  
14 electricity both into and out of the customer's facility at  
15 the same rate and ratio. ~~If such customer's existing~~  
16 ~~electric revenue meter does not meet this requirement, then~~  
17 ~~the electricity provider shall arrange for the local~~  
18 ~~electric utility or a meter service provider to install and~~  
19 ~~maintain a new revenue meter at the electricity provider's~~  
20 ~~expense.~~

21 (3) For all other eligible customers, until such time  
22 as the local electric utility installs a smart meter, as  
23 described by subsection (b) of Section 16-108.5 of this  
24 Act, the electricity provider may arrange for the local  
25 electric utility or a meter service provider to install and  
26 maintain metering equipment capable of measuring the flow

1 of electricity both into and out of the customer's facility  
2 at the same rate and ratio, typically through the use of a  
3 dual channel meter. ~~If the eligible customer's existing~~  
4 ~~electric revenue meter does not meet this requirement, then~~  
5 ~~the costs of installing such equipment shall be paid for by~~  
6 ~~the customer.~~

7 (d) An electricity provider shall measure and charge or  
8 credit for the net electricity supplied to eligible customers  
9 or provided by eligible customers whose electric service has  
10 not been declared competitive pursuant to Section 16-113 of  
11 this ~~the~~ Act as of July 1, 2011 and whose electric delivery  
12 service is provided and measured on a kilowatt-hour basis and  
13 electric supply service is not provided based on hourly pricing  
14 in the following manner:

15 (1) If the amount of electricity used by the customer  
16 during the billing period exceeds the amount of electricity  
17 produced by the customer, the electricity provider shall  
18 charge the customer for the net electricity supplied to and  
19 used by the customer as provided in subsection (e-5) of  
20 this Section.

21 (2) If the amount of electricity produced by a customer  
22 during the billing period exceeds the amount of electricity  
23 used by the customer during that billing period, the  
24 electricity provider supplying that customer shall apply a  
25 1:1 kilowatt-hour credit to a subsequent bill for service  
26 to the customer for the net electricity supplied to the

1 electricity provider. The electricity provider shall  
2 continue to carry over any excess kilowatt-hour credits  
3 earned and apply those credits to subsequent billing  
4 periods to offset any customer-generator consumption in  
5 those billing periods until all credits are used or until  
6 the end of the annualized period.

7 (3) At the end of the year or annualized over the  
8 period that service is supplied by means of net metering,  
9 or in the event that the retail customer terminates service  
10 with the electricity provider prior to the end of the year  
11 or the annualized period, any remaining credits in the  
12 customer's account shall expire.

13 (d-5) An electricity provider shall measure and charge or  
14 credit for the net electricity supplied to eligible customers  
15 or provided by eligible customers whose electric service has  
16 not been declared competitive pursuant to Section 16-113 of  
17 this Act as of July 1, 2011 and whose electric delivery service  
18 is provided and measured on a kilowatt-hour basis and electric  
19 supply service is provided based on hourly pricing in the  
20 following manner:

21 (1) If the amount of electricity used by the customer  
22 during any hourly period exceeds the amount of electricity  
23 produced by the customer, the electricity provider shall  
24 charge the customer for the net electricity supplied to and  
25 used by the customer according to the terms of the contract  
26 or tariff to which the same customer would be assigned to

1 or be eligible for if the customer was not a net metering  
2 customer.

3 (2) If the amount of electricity produced by a customer  
4 during any hourly period exceeds the amount of electricity  
5 used by the customer during that hourly period, the energy  
6 provider shall apply a credit for the net kilowatt-hours  
7 produced in such period. The credit shall consist of an  
8 energy credit and a delivery service credit. The energy  
9 credit shall be valued at the same price per kilowatt-hour  
10 as the electric service provider would charge for  
11 kilowatt-hour energy sales during that same hourly period.  
12 The delivery credit shall be equal to the net  
13 kilowatt-hours produced in such hourly period times a  
14 credit that reflects all kilowatt-hour based charges in the  
15 customer's electric service rate, excluding energy  
16 charges.

17 (e) An electricity provider shall measure and charge or  
18 credit for the net electricity supplied to eligible customers  
19 whose electric service has not been declared competitive  
20 pursuant to Section 16-113 of this Act as of July 1, 2011 and  
21 whose electric delivery service is provided and measured on a  
22 kilowatt demand basis and electric supply service is not  
23 provided based on hourly pricing in the following manner:

24 (1) If the amount of electricity used by the customer  
25 during the billing period exceeds the amount of electricity  
26 produced by the customer, then the electricity provider

1 shall charge the customer for the net electricity supplied  
2 to and used by the customer as provided in subsection (e-5)  
3 of this Section. The customer shall remain responsible for  
4 all taxes, fees, and utility delivery charges that would  
5 otherwise be applicable to the net amount of electricity  
6 used by the customer.

7 (2) If the amount of electricity produced by a customer  
8 during the billing period exceeds the amount of electricity  
9 used by the customer during that billing period, then the  
10 electricity provider supplying that customer shall apply a  
11 1:1 kilowatt-hour credit that reflects the kilowatt-hour  
12 based charges in the customer's electric service rate to a  
13 subsequent bill for service to the customer for the net  
14 electricity supplied to the electricity provider. The  
15 electricity provider shall continue to carry over any  
16 excess kilowatt-hour credits earned and apply those  
17 credits to subsequent billing periods to offset any  
18 customer-generator consumption in those billing periods  
19 until all credits are used or until the end of the  
20 annualized period.

21 (3) At the end of the year or annualized over the  
22 period that service is supplied by means of net metering,  
23 or in the event that the retail customer terminates service  
24 with the electricity provider prior to the end of the year  
25 or the annualized period, any remaining credits in the  
26 customer's account shall expire.

1           (e-5) An electricity provider shall provide electric  
2 service to eligible customers who utilize net metering at  
3 non-discriminatory rates that are identical, with respect to  
4 rate structure, retail rate components, and any monthly  
5 charges, to the rates that the customer would be charged if not  
6 a net metering customer. An electricity provider shall not  
7 charge net metering customers any fee or charge or require  
8 additional equipment, insurance, or any other requirements not  
9 specifically authorized by interconnection standards  
10 authorized by the Commission, unless the fee, charge, or other  
11 requirement would apply to other similarly situated customers  
12 who are not net metering customers. The customer will remain  
13 responsible for all taxes, fees, and utility delivery charges  
14 that would otherwise be applicable to the net amount of  
15 electricity used by the customer. Subsections (c) through (e)  
16 of this Section shall not be construed to prevent an  
17 arms-length agreement between an electricity provider and an  
18 eligible customer that sets forth different prices, terms, and  
19 conditions for the provision of net metering service,  
20 including, but not limited to, the provision of the appropriate  
21 metering equipment for non-residential customers.

22           (f) Notwithstanding the requirements of subsections (c)  
23 through (e-5) of this Section, an electricity provider must  
24 require dual-channel metering for customers operating eligible  
25 renewable electrical generating facilities with a nameplate  
26 rating up to 2,000 kilowatts and to whom the provisions of

1 neither subsection (d), (d-5), nor (e) of this Section apply.  
2 In such cases, electricity charges and credits shall be  
3 determined as follows:

4 (1) The electricity provider shall assess and the  
5 customer remains responsible for all taxes, fees, and  
6 utility delivery charges that would otherwise be  
7 applicable to the gross amount of kilowatt-hours supplied  
8 to the eligible customer by the electricity provider.

9 (2) Each month that service is supplied by means of  
10 dual-channel metering, the electricity provider shall  
11 compensate the eligible customer for any excess  
12 kilowatt-hour credits at the electricity provider's  
13 avoided cost of electricity supply over the monthly period  
14 or as otherwise specified by the terms of a power-purchase  
15 agreement negotiated between the customer and electricity  
16 provider.

17 (3) For all eligible net metering customers taking  
18 service from an electricity provider under contracts or  
19 tariffs employing time of use rates, any monthly  
20 consumption of electricity shall be calculated according  
21 to the terms of the contract or tariff to which the same  
22 customer would be assigned to or be eligible for if the  
23 customer was not a net metering customer. When those same  
24 customer-generators are net generators during any discrete  
25 time of use period, the net kilowatt-hours produced shall  
26 be valued at the same price per kilowatt-hour as the

1 electric service provider would charge for retail  
2 kilowatt-hour sales during that same time of use period.

3 (g) For purposes of federal and State laws providing  
4 renewable energy credits or greenhouse gas credits, the  
5 eligible customer shall be treated as owning and having title  
6 to the renewable energy attributes, renewable energy credits,  
7 and greenhouse gas emission credits related to any electricity  
8 produced by the qualified generating unit. The electricity  
9 provider may not condition participation in a net metering  
10 program on the signing over of a customer's renewable energy  
11 credits; provided, however, this subsection (g) shall not be  
12 construed to prevent an arms-length agreement between an  
13 electricity provider and an eligible customer that sets forth  
14 the ownership or title of the credits.

15 (h) Within 120 days after the effective date of this  
16 amendatory Act of the 95th General Assembly, the Commission  
17 shall establish standards for net metering and, if the  
18 Commission has not already acted on its own initiative,  
19 standards for the interconnection of eligible renewable  
20 generating equipment to the utility system. The  
21 interconnection standards shall address any procedural  
22 barriers, delays, and administrative costs associated with the  
23 interconnection of customer-generation while ensuring the  
24 safety and reliability of the units and the electric utility  
25 system. The Commission shall consider the Institute of  
26 Electrical and Electronics Engineers (IEEE) Standard 1547 and

1 the issues of (i) reasonable and fair fees and costs, (ii)  
2 clear timelines for major milestones in the interconnection  
3 process, (iii) nondiscriminatory terms of agreement, and (iv)  
4 any best practices for interconnection of distributed  
5 generation.

6 (i) All electricity providers shall begin to offer net  
7 metering no later than April 1, 2008. However, this Section  
8 shall not apply to an electric utility, or the customers to  
9 which such utility provides delivery services, beginning on the  
10 date that the utility's tariff to recover its delivery services  
11 costs pursuant to subsection (a) of Section 9-105 of this Act  
12 takes effect, if any. Retail customers that are receiving net  
13 metering service pursuant to this Section at such time as this  
14 Section ceases to apply to the electric utility shall be  
15 entitled to continue the service pursuant to subsections (c)  
16 and (e) of Section 16-107.7 of this Act.

17 (j) An electricity provider shall provide net metering to  
18 eligible customers until the load of its net metering customers  
19 equals 5% of the total peak demand supplied by that electricity  
20 provider during the previous year. Electricity providers are  
21 authorized to offer net metering beyond the 5% level if they so  
22 choose.

23 (k) Each electricity provider shall maintain records and  
24 report annually to the Commission the total number of net  
25 metering customers served by the provider, as well as the type,  
26 capacity, and energy sources of the generating systems used by

1 the net metering customers. Nothing in this Section shall limit  
2 the ability of an electricity provider to request the redaction  
3 of information deemed by the Commission to be confidential  
4 business information. Each electricity provider shall notify  
5 the Commission when the total generating capacity of its net  
6 metering customers is equal to or in excess of the 5% cap  
7 specified in subsection (j) of this Section.

8 (1) Notwithstanding the definition of "eligible customer"  
9 in item (i) of subsection (b) of this Section, each electricity  
10 provider shall consider whether to allow meter aggregation for  
11 the purposes of net metering on:

12 (1) properties owned or leased by multiple customers  
13 that contribute to the operation of an eligible renewable  
14 electrical generating facility, such as a community-owned  
15 wind project, a community-owned biomass project, a  
16 community-owned solar project, or a community methane  
17 digester processing livestock waste from multiple sources;  
18 and

19 (2) individual units, apartments, or properties owned  
20 or leased by multiple customers and collectively served by  
21 a common eligible renewable electrical generating  
22 facility, such as an apartment building served by  
23 photovoltaic panels on the roof.

24 For the purposes of this subsection (1), "meter  
25 aggregation" means the combination of reading and billing on a  
26 pro rata basis for the types of eligible customers described in

1 this Section.

2 (m) Nothing in this Section shall affect the right of an  
3 electricity provider to continue to provide, or the right of a  
4 retail customer to continue to receive service pursuant to a  
5 contract for electric service between the electricity provider  
6 and the retail customer in accordance with the prices, terms,  
7 and conditions provided for in that contract. Either the  
8 electricity provider or the customer may require compliance  
9 with the prices, terms, and conditions of the contract.

10 (Source: P.A. 97-616, eff. 10-26-11; 97-646, eff. 12-30-11;  
11 97-824, eff. 7-18-12.)

12 (220 ILCS 5/16-107.6 new)

13 Sec. 16-107.6. Net electricity metering.

14 (a) This Section shall apply to an electric utility, and  
15 the customers to which the utility provides delivery services,  
16 beginning on the date that the utility's tariff to recover its  
17 delivery services costs through a demand-based rate pursuant to  
18 subsection (a) of Section 9-105 of this Act takes effect, if  
19 any. A retail customer that is receiving net metering service  
20 pursuant to Section 16-107.5 of this Act at the time this  
21 Section applies to such electric utility, shall be entitled to  
22 continue such service pursuant to subsections (c) and (e) of  
23 Section 16-107.7 of this Act.

24 (b) As used in this Section:

25 "Eligible customer" means a retail customer that owns or

1 operates a solar, wind, or other eligible renewable electrical  
2 generating facility with a rated capacity of not more than  
3 2,000 kilowatts that is located on the customer's premises and  
4 is intended to offset the customer's own electrical  
5 requirements.

6 "Electricity provider" means an electric utility or  
7 alternative retail electric supplier.

8 "Eligible renewable electrical generating facility" means  
9 a generator that is connected to the utility's distribution  
10 system at a voltage of no greater than 12.47 kilovolts and is  
11 powered by solar electric energy, wind, dedicated crops grown  
12 for electricity generation, agricultural residues, untreated  
13 and unadulterated wood waste, landscape trimmings, livestock  
14 manure, anaerobic digestion of livestock or food processing  
15 waste, fuel cells or microturbines powered by renewable fuels,  
16 or hydroelectric energy.

17 "Net electricity metering" or "net metering" means the  
18 measurement, during the billing period applicable to an  
19 eligible customer, of the net amount of electricity supplied by  
20 an electricity provider to the customer's premises or provided  
21 to the electricity provider by the customer.

22 (c) A net metering facility shall be equipped with metering  
23 equipment that can measure the flow of electricity in both  
24 directions at the same rate. The electricity provider may  
25 arrange for the local electric utility or a meter service  
26 provider to install and maintain metering equipment capable of

1 measuring the flow of electricity both into and out of the  
2 eligible customer's facility at the same rate and ratio,  
3 typically through the use of a dual channel meter.

4 (d) An electricity provider shall charge or credit for the  
5 net electricity supplied to eligible customers whose electric  
6 delivery service is provided and measured on a kilowatt demand  
7 basis and electric supply service is not provided based on  
8 hourly or time of use pricing in the following manner:

9 (1) If the amount of electricity used by the customer  
10 during the billing period exceeds the amount of electricity  
11 produced by the customer, then the electricity provider  
12 shall charge the customer for the net kilowatt-hour based  
13 electricity charges reflected in the customer's electric  
14 service rate supplied to and used by the customer as  
15 provided in subsection (f) of this Section.

16 (2) If the amount of electricity produced by a customer  
17 during the billing period exceeds the amount of electricity  
18 used by the customer during that billing period, then the  
19 electricity provider supplying that customer shall apply a  
20 1:1 kilowatt-hour credit that reflects the kilowatt-hour  
21 based charges in the customer's electric service rate to a  
22 subsequent bill for service to the customer for the net  
23 electricity supplied to the electricity provider. The  
24 electricity provider shall continue to carry over any  
25 excess kilowatt-hour credits earned and apply those  
26 credits to subsequent billing periods to offset any

1 customer-generator consumption in those billing periods  
2 until all credits are used or until the end of the  
3 annualized period.

4 (3) At the end of the year or annualized over the  
5 period that service is supplied by means of net metering,  
6 or in the event that the retail customer terminates service  
7 with the electricity provider prior to the end of the year  
8 or the annualized period, any remaining credits in the  
9 customer's account shall expire.

10 (e) An electricity provider shall charge or credit for the  
11 net electricity supplied to eligible customers whose electric  
12 delivery service is provided and measured on a kilowatt-demand  
13 basis and electric supply service is provided based on hourly  
14 or time of use pricing in the following manner:

15 (1) If the amount of electricity used by the customer  
16 during any hourly or time-of-use period exceeds the amount  
17 of electricity produced by the customer, then the  
18 electricity provider shall charge the customer for the net  
19 electricity supplied to and used by the customer as  
20 provided in subsection (f) of this Section.

21 (2) If the amount of electricity produced by a customer  
22 during any hourly or time of use period exceeds the amount  
23 of electricity used by the customer during that hourly or  
24 time of use period, the energy provider shall calculate an  
25 energy credit for the net kilowatt-hours produced in such  
26 period. The value of the energy credit shall be calculated

1       using the same price per kilowatt-hour as the electric  
2       service provider would charge for kilowatt-hour energy  
3       sales during that same hourly or time of use period.

4       (f) An electricity provider shall provide electric service  
5       to eligible customers who utilize net metering at  
6       non-discriminatory rates that are identical, with respect to  
7       rate structure, retail rate components, and any monthly  
8       charges, to the rates that the customer would be charged if not  
9       a net metering customer. An electricity provider shall charge  
10       the customer for the net electricity supplied to and used by  
11       the customer according to the terms of the contract or tariff  
12       to which the same customer would be assigned or be eligible for  
13       if the customer was not a net metering customer. An electricity  
14       provider shall not charge net metering customers any fee or  
15       charge or require additional equipment, insurance, or any other  
16       requirements not specifically authorized by interconnection  
17       standards authorized by the Commission, unless the fee, charge,  
18       or other requirement would apply to other similarly situated  
19       customers who are not net metering customers. The customer  
20       remains responsible for the gross amount of delivery services  
21       charges and supply-related charges that are kilowatt based, as  
22       well as all taxes and fees related to such charges. The  
23       customer also remains responsible for all taxes and fees that  
24       would otherwise be applicable to the net amount of electricity  
25       used by the customer. Subsections (d) and (e) of this Section  
26       shall not be construed to prevent an arms-length agreement

1 between an electricity provider and an eligible customer that  
2 sets forth different prices, terms, and conditions for the  
3 provision of net metering service, including, but not limited  
4 to, the provision of the appropriate metering equipment for  
5 non-residential customers. Nothing in this subsection (f)  
6 shall be interpreted to mandate that a utility that is only  
7 required to provide delivery services to a given customer must  
8 also sell electricity to such customer.

9 (g) For purposes of federal and State laws providing  
10 renewable energy credits or greenhouse gas credits, an  
11 electricity provider shall not, by virtue of providing net  
12 metering, be treated as owning and having title to the  
13 renewable energy attributes, renewable energy credits, and  
14 greenhouse gas emission credits related to any electricity  
15 produced by the qualified generating unit. The electric utility  
16 may not condition participation in a net metering program on  
17 the signing over of a customer's renewable energy credits;  
18 provided, however, this subsection (g) shall not be construed  
19 to prevent an arms-length agreement between an electricity  
20 provider and an eligible customer that sets forth the ownership  
21 or title of the credits.

22 (h) Each electricity provider shall maintain records and  
23 report annually to the Commission the total number of net  
24 metering customers served by the electricity provider, as well  
25 as the type, capacity, and energy sources of the generating  
26 systems used by the net metering customers. Nothing in this

1 Section shall limit the ability of an electricity provider to  
2 request the redaction of confidential business information.

3 (i) Notwithstanding the definition of "eligible customer"  
4 in subsection (c) of this Section, each electricity provider  
5 shall allow meter aggregation for the purposes of net metering  
6 on:

7 (1) properties owned or leased by multiple customers  
8 that contribute to the operation of an eligible renewable  
9 electrical generating facility through an ownership or  
10 leasehold interest of at least 2 kilowatts in such  
11 facility, such as a community-owned biomass project, a  
12 community-owned solar project, or a community methane  
13 digester processing livestock waste from multiple sources,  
14 provided that the address at which each such customer  
15 receives electric service from the electric utility must be  
16 located within 5 miles of the location of the facility and  
17 that the facility is also located within the utility's  
18 service territory; and

19 (2) individual units, apartments, or properties  
20 located in a single building that are owned or leased by  
21 multiple customers and collectively served by a common  
22 eligible renewable electrical generating facility, such as  
23 an office or apartment building, a shopping center or strip  
24 mall served by photovoltaic panels on the roof.

25 In addition, the demand of the properties, units, or  
26 apartments identified in subparagraphs (1) and (2) of this

1 subsection (i) whose meters are aggregated and that  
2 contribute to or are served by an eligible renewable  
3 electrical generating facility shall not exceed 2,000  
4 kilowatts in nameplate capacity in total. For the purposes  
5 of this subsection (i), "meter aggregation" means the  
6 combination of reading and billing on a pro rata basis for  
7 the types of customers described in this subsection (i).  
8 For purposes of facilitating such reading and billing, the  
9 owner or operator of the eligible renewable electrical  
10 generating facility shall be responsible for determining  
11 the amount of the credit that each customer participating  
12 in meter aggregation pursuant to this subsection (i) is to  
13 receive in the following manner:

14 (A) For those participating customers who receive  
15 their energy supply from an electricity provider that  
16 is an electric utility, the owner or operator shall, on  
17 a monthly basis, calculate the monetary value of the  
18 energy credit for each such customer that is to be  
19 applied to the customer's electric utility bill by the  
20 electricity provider. The owner or operator shall  
21 calculate such monthly credit for each such customer in  
22 accordance with the customer's share of the eligible  
23 renewable electric generating facility's output of  
24 power and energy for a given month and the  
25 cents-per-kilowatt-hour price of power and energy  
26 supply service set forth in the applicable tariff or

1 tariffs of the customer's electricity provider for  
2 that same month. In the event that more than one price  
3 for power and energy supply service was in effect  
4 during the applicable month, the owner or operator  
5 shall calculate the credit based on an appropriate  
6 weighting. The owner or operator shall electronically  
7 transmit such calculations and data to the electricity  
8 provider, in a format or method as agreed to by the  
9 electricity provider and the owner or operator, on a  
10 monthly basis so that the electricity provider can  
11 reflect the monetary credits on customers' electric  
12 utility bills. The electricity provider shall be  
13 permitted to revise its tariffs to implement the  
14 provisions of this amendatory Act of the 99th General  
15 Assembly. The owner or operator shall separately  
16 provide the electricity provider with the  
17 documentation detailing the calculations supporting  
18 the credit in the manner set forth in the applicable  
19 tariff.

20 (B) For those participating customers who receive  
21 their energy supply from an alternative retail  
22 electric supplier, the owner or operator shall  
23 determine the monthly credit, in a dollar amount, and  
24 provide the information to the alternative retail  
25 electric supplier in a manner set forth in such  
26 alternative retail electric supplier's meter

1           aggregation program, or as otherwise agreed between  
2           the parties.

3           (j) Each electric utility subject to this Section shall  
4           file a tariff to implement the provisions of subsection (i) of  
5           this Section in conjunction with the tariff that the utility  
6           files to implement subsection (a) of Section 9-105 of this Act,  
7           which shall, consistent with the provisions of such subsection,  
8           describe the terms and conditions pursuant to which owners or  
9           operators of qualifying properties, units, or apartments may  
10           participate in meter aggregation for purposes of net metering.  
11           The tariff approved pursuant to this subsection shall become  
12           effective on the same date that the tariff implementing  
13           subsection (a) of Section 9-105 of this Act becomes effective.

14           (k) Nothing in this Section shall affect the right of an  
15           electricity provider to continue to provide, or the right of a  
16           retail customer to continue to receive service pursuant to a  
17           contract for electric service between the electricity provider  
18           and the retail customer in accordance with the prices, terms,  
19           and conditions provided for in that contract. Either the  
20           electricity provider or the customer may require compliance  
21           with the prices, terms, and conditions of the contract.

22           (220 ILCS 5/16-107.7 new)

23           Sec. 16-107.7. Distributed generation rebate.

24           (a) In this Section:

25           "Smart inverter" means a device that converts direct

1 current into alternating current and can autonomously  
2 contribute to grid support during excursions from normal  
3 operating voltage and frequency conditions by providing each of  
4 the following: dynamic reactive and real power support, voltage  
5 and frequency ride-through, ramp rate controls, communication  
6 systems with ability to accept external commands, and other  
7 functions from the electric utility.

8 "Threshold date" means:

9 (1) For distributed generation that is located in the  
10 service territory of an electric utility that serves more  
11 than 3,000,000 retail customers in the State, the date on  
12 which the combined nameplate capacity of such distributed  
13 generation located in such service territory that is  
14 enrolled in the rebate programs implemented pursuant to  
15 this Section reaches 150 megawatts; and

16 (2) For distributed generation that is located in the  
17 service territory of an electric utility that serves  
18 3,000,000 or less retail customers in the State, the date  
19 on which the combined nameplate capacity of distributed  
20 generation located in such service territory that is  
21 enrolled the rebate programs implemented pursuant to this  
22 Section reaches 75 megawatts.

23 (b) An electric utility that serves more than 200,000  
24 customers in the State may file a petition with the Commission  
25 requesting approval of the utility's tariff to provide a rebate  
26 to a retail customer who owns or operates distributed

1 generation that meets the following criteria:

2 (1) has a nameplate generating capacity no greater than  
3 2,000 kilowatts and is designed not to exceed the peak load  
4 of the customer's premises;

5 (2) is located on the customer's premises, for the  
6 customer's own use, and not for commercial use or sales,  
7 including, but not limited to, wholesale sales of electric  
8 power and energy;

9 (3) is located in the electric utility's service  
10 territory; and

11 (4) is connected to the utility's distribution system  
12 at a voltage of no greater than 12.47 kilovolts by means of  
13 the inverter or smart inverter required by this Section, as  
14 applicable.

15 The tariff shall provide that the utility shall be permitted to  
16 operate and control the smart inverter associated with the  
17 distributed generation that is the subject of the rebate and  
18 shall address the terms and conditions of the operation and the  
19 compensation associated with the operation.

20 If an electric utility elects to recover its costs of  
21 providing delivery services to retail customers pursuant to  
22 subsection (a) of Section 9-105 of this Act, it shall be  
23 required to file the proposed tariffs described in this  
24 Section. Such tariff or tariffs, as applicable, shall be filed  
25 with the tariffs filed to implement subsection (a) of Section  
26 9-105 of this Act, and shall become effective upon the same

1 date that the tariffs filed to implement subsection (a) of  
2 Section 9-105 become effective.

3 (c) The proposed tariff authorized by subsection (b) of  
4 this Section shall include the following participation terms  
5 and formulae to calculate the value of the rebates to be  
6 applied pursuant to this Section for distributed generation  
7 that satisfies the criteria set forth in subsection (b) of this  
8 Section:

9 (1) Until the earlier of the threshold date or December  
10 31, 2021:

11 (A) Retail customers may, as applicable, make the  
12 following elections:

13 (i) Residential customers that are taking  
14 service pursuant to a net metering program offered  
15 by an electricity provider under the terms of  
16 Section 16-107.5 of this Act on the effective date  
17 of this amendatory Act of the 99th General Assembly  
18 may elect to either continue to take such service  
19 pursuant to the terms of such program as in effect  
20 on such effective date for the useful life of the  
21 customer's eligible renewable electric generating  
22 facility as defined in such Section, or file an  
23 application to receive a rebate pursuant to the  
24 terms of this Section, provided that such  
25 application must be submitted within 6 months  
26 after the effective date of the tariff approved

1           under this subsection (c) and the inverter  
2           associated with such customer's distributed  
3           generation need not be a smart inverter.

4           (ii) Residential customers that begin taking  
5           service pursuant to a net metering program offered  
6           by an electricity provider under the terms of  
7           Section 16-107.5 of this Act after the effective  
8           date of this amendatory Act of the 99th General  
9           Assembly may elect to either continue to take such  
10           service pursuant to the terms of such program as in  
11           effect on such effective date until December 31,  
12           2021, or file an application to receive a rebate  
13           pursuant to the terms of this Section, provided,  
14           however, that the inverter associated with the  
15           customer's distributed generation must be a smart  
16           inverter.

17           (iii) Non-residential customers that are  
18           taking service pursuant to a net metering program  
19           offered by an electricity provider under the terms  
20           of Section 16-107.5 of this Act on the effective  
21           date of this amendatory Act of the 99th General  
22           Assembly may apply for a rebate as provided for in  
23           this Section, provided that the inverter  
24           associated with such customer's distributed  
25           generation need not be a smart inverter.

26           (iv) Non-residential customers that begin

1           taking service pursuant to a net metering program  
2           offered by an electricity provider under the terms  
3           of Section 16-107.5 of this Act after the effective  
4           date of this amendatory Act of the 99th General  
5           Assembly may apply for a rebate as provided for in  
6           this Section; however, the inverter associated  
7           with the customer's distributed generation must be  
8           a smart inverter.

9           Upon approval of a rebate application submitted under  
10          items (i) or (ii) of this subparagraph (A), the retail  
11          customer shall no longer be entitled to receive any  
12          delivery service credits for the excess electricity  
13          generated by its facility.

14           (B) The value of the rebates shall be:

15                   (i) \$1,000 per kilowatt of nameplate  
16                   generating capacity, measured as nominal DC power  
17                   output, of a residential customer's distributed  
18                   generation; and

19                   (ii) \$500 per kilowatt of nameplate generating  
20                   capacity, measured as nominal DC power output, of a  
21                   non-residential customer's distributed generation.

22          (2) After the threshold date but until no later than  
23          December 31, 2021:

24           (A) Retail customers may, as applicable, make the  
25          following elections:

26                   (i) Residential customers that begin taking

1           service pursuant to a net metering program offered  
2           by an electricity provider under the terms of  
3           Section 16-107.5 of this Act after the threshold  
4           date may elect to either continue to take such  
5           service pursuant to the terms of such program until  
6           December 31, 2021 or, within 6 months after the  
7           date of the customer's first bill that reflects net  
8           metering, file an application to receive a rebate  
9           pursuant to the terms of this Section, provided,  
10           however, that the inverter associated with such  
11           customer's distributed generation must be a smart  
12           inverter. Upon approval of such application, the  
13           retail customer shall no longer be entitled to  
14           receive any delivery service credits for the  
15           excess electricity generated by its facility.

16           (ii) Non-residential customers that begin  
17           taking service pursuant to a net metering program  
18           offered by an electricity provider under the terms  
19           of Section 16-107.5 of this Act after the threshold  
20           date may apply for a rebate as provided for in this  
21           Section; however, the inverter associated with the  
22           customer's distributed generation must be a smart  
23           inverter.

24           (B) The value of the rebates shall be:

25           (i) \$750 per kilowatt of nameplate generating  
26           capacity, measured as nominal DC power output, of a

1           residential customer's distributed generation; and  
2                   (ii) \$325 per kilowatt of nameplate generating  
3           capacity, measured as nominal DC power output, of a  
4           non-residential customer's distributed generation.

5           (3) The value of the rebates identified in this  
6           subsection (c) shall be adjusted in proportion to the  
7           actual nameplate capacity of the distributed generation  
8           that is the subject of a rebate application submitted  
9           pursuant to this Section.

10          (d) The Commission shall review the proposed tariff  
11          submitted pursuant to subsections (b) and (c) of this Section  
12          and may make changes to the tariff that are consistent with  
13          this Section and with the Commission's authority under Article  
14          IX of this Act, subject to notice and hearing. Following notice  
15          and hearing, the Commission shall issue an order approving, or  
16          approving with modification, such tariff no later than 240 days  
17          after the utility files its tariff.

18          (e) No later than June 1, 2021, an electric utility that  
19          elected, or was required, to file a tariff pursuant to this  
20          Section shall file a tariff with the Commission that proposes  
21          an annual process and formula for calculating the value of  
22          rebates for the retail customers described in subsection (b) of  
23          this Section that submit rebate applications after December 31,  
24          2021. The value of such rebates shall be cost-based and reflect  
25          the value of the distributed generation to the distribution  
26          system at the location at which it is interconnected. Retail

1 customers who elect to submit rebate applications after  
2 December 31, 2021, including all retail customers who are  
3 taking net metering and whose delivery service credits will  
4 terminate after December 31, 2021, shall receive the rebate  
5 provided for by this Section that is in effect at the time the  
6 application is submitted less the total amount of delivery  
7 service credits that the retail customer has received under any  
8 net metering program. The retail customer shall then no longer  
9 be entitled to receive any delivery service credits for the  
10 excess electricity generated by its facility. The Commission  
11 shall review and, after notice and hearing, approve, or approve  
12 with modification, the utility's proposed tariff. If the  
13 Commission modifies such tariff, the modifications shall be  
14 consistent with this Section and the Commission's authority  
15 under Article IX of this Act.

16 (f) Notwithstanding any provision of this Act to the  
17 contrary, the owner, developer, or customer of a generation  
18 facility that is part of a meter aggregation program provided  
19 pursuant to subsection (i) of Section 16-107.6 of this Act  
20 shall also be eligible to apply for the rebate described in  
21 subsections (b) and (c) of this Section. A customer of the  
22 generation facility may apply for a rebate only if the owner or  
23 developer has not already submitted an application, and may be  
24 allowed an amount as described in subsection (c) or (e) of this  
25 Section applicable to such customer on the date that the  
26 application is submitted. If the owner or developer submits the

1 application, the amount of the rebate shall be in proportion to  
2 the mix of customers that subscribe to the output of the  
3 facility on the date that an application for the rebate is  
4 submitted, less any rebates that have been applied for or  
5 provided to customers of the generation facility. An  
6 application for a rebate for a portion of a project described  
7 in this subsection (d) may be submitted at or after the time  
8 that a related request for net metering is made.

9 (g) No later than 180 days after the utility receives an  
10 application for a rebate pursuant to its tariff approved under  
11 subsection (b) or (c) of this Section, the utility shall issue  
12 a rebate to the applicant pursuant to the terms of the tariff.  
13 In the event the application is incomplete or the utility is  
14 otherwise unable to calculate the payment based on the  
15 information provided by the owner, the utility shall issue the  
16 payment no later than 180 days after the application is  
17 complete or all requested information is received.

18 (h) An electric utility shall recover from its retail  
19 customers all of the costs of the rebates made pursuant to a  
20 tariff or tariffs placed into effect under this Section,  
21 including, but not limited to, the value of the rebates and all  
22 costs incurred by the utility to comply with and implement this  
23 Section, consistent with the following provisions:

24 (1) The utility shall defer the full amount of its  
25 costs incurred pursuant to this Section as a regulatory  
26 asset. The total costs deferred as a regulatory asset shall

1       be amortized over a 15-year period. The unamortized balance  
2       shall be recognized as of December 31 for a given year. The  
3       utility shall also earn a return on the total of the  
4       unamortized balance of the regulatory assets, less any  
5       deferred taxes related to the unamortized balance, at an  
6       annual rate equal to the utility's weighted average cost of  
7       capital that includes, based on a year-end capital  
8       structure, the utility's actual cost of debt for the  
9       applicable calendar year and a cost of equity, which shall  
10      be calculated as the sum of (i) the average for the  
11      applicable calendar year of the monthly average yields of  
12      30-year U.S. Treasury bonds published by the Board of  
13      Governors of the Federal Reserve System in its weekly H.15  
14      Statistical Release or successor publication; and (ii) 580  
15      basis points, including a revenue conversion factor  
16      calculated to recover or refund all additional income taxes  
17      that may be payable or receivable as a result of that  
18      return.

19           When an electric utility creates a regulatory asset  
20      pursuant to the provisions of this Section, the costs are  
21      recovered over a period during which customers also receive  
22      a benefit, which is in the public interest. Accordingly, it  
23      is the intent of the General Assembly that an electric  
24      utility that elects to create a regulatory asset pursuant  
25      to the provisions of this Section shall recover all of the  
26      associated costs, including, but not limited to, its cost

1 of capital as set forth in this Section. After the  
2 Commission has approved the prudence and reasonableness of  
3 the costs that comprise the regulatory asset, the electric  
4 utility shall be permitted to recover all such costs, and  
5 the value and recoverability through rates of the  
6 associated regulatory asset shall not be limited, altered,  
7 impaired, or reduced.

8 (2) The utility, at its election, may recover all of  
9 the costs it incurs pursuant to this Section as part of a  
10 filing for a general increase in rates under Article IX of  
11 this Act, as part of an annual filing to update a  
12 performance-based formula rate pursuant to subsection (d)  
13 of Section 16-108.5 of this Act, or through an automatic  
14 adjustment clause tariff. If the utility elects to recover  
15 the costs it incurs under this Section through an automatic  
16 adjustment clause tariff, the utility may file its proposed  
17 tariff together with the tariff it files pursuant to  
18 subsection (b) of this Section or at a later time. The  
19 proposed tariff shall provide for an annual  
20 reconciliation, less any deferred taxes related to the  
21 reconciliation, with interest at an annual rate of return  
22 equal to the utility's weighted average cost of capital as  
23 calculated pursuant to paragraph (1) of this subsection  
24 (h), including a revenue conversion factor calculated to  
25 recover or refund all additional income taxes that may be  
26 payable or receivable as a result of that return, of the

1 revenue requirement reflected in rates for each calendar  
2 year, beginning with the calendar year in which the utility  
3 files its automatic adjustment clause tariff pursuant to  
4 this subsection (h), with what the revenue requirement  
5 would have been had the actual cost information for the  
6 applicable calendar year been available at the filing date.  
7 The Commission shall review the proposed tariff and may  
8 make changes to the tariff that are consistent with this  
9 Section and with the Commission's authority under Article  
10 IX of this Act, subject to notice and hearing. Following  
11 notice and hearing, the Commission shall issue an order  
12 approving, or approving with modification, such tariff no  
13 later than 240 days after the utility files its tariff.

14 (i) Within 180 days after the effective date of this  
15 amendatory Act of the 99th General Assembly, each electric  
16 utility with net metering customers on such effective date  
17 shall provide notice of the availability of rebates under this  
18 Section. Subsequent to the effective date, any entity that  
19 offers in the State, for sale or lease, distributed generation  
20 and estimates the dollar saving attributable to such  
21 distributed generation shall provide estimates based on both  
22 delivery service credits and the rebates available under this  
23 Section.

24 (220 ILCS 5/16-108)

25 Sec. 16-108. Recovery of costs associated with the

1 provision of delivery services.

2 (a) An electric utility shall file a delivery services  
3 tariff with the Commission at least 210 days prior to the date  
4 that it is required to begin offering such services pursuant to  
5 this Act. An electric utility shall provide the components of  
6 delivery services that are subject to the jurisdiction of the  
7 Federal Energy Regulatory Commission at the same prices, terms  
8 and conditions set forth in its applicable tariff as approved  
9 or allowed into effect by that Commission. The Commission shall  
10 otherwise have the authority pursuant to Article IX to review,  
11 approve, and modify the prices, terms and conditions of those  
12 components of delivery services not subject to the jurisdiction  
13 of the Federal Energy Regulatory Commission, including the  
14 authority to determine the extent to which such delivery  
15 services should be offered on an unbundled basis. In making any  
16 such determination the Commission shall consider, at a minimum,  
17 the effect of additional unbundling on (i) the objective of  
18 just and reasonable rates, (ii) electric utility employees, and  
19 (iii) the development of competitive markets for electric  
20 energy services in Illinois.

21 (b) The Commission shall enter an order approving, or  
22 approving as modified, the delivery services tariff no later  
23 than 30 days prior to the date on which the electric utility  
24 must commence offering such services. The Commission may  
25 subsequently modify such tariff pursuant to this Act.

26 (c) The electric utility's tariffs shall define the classes

1 of its customers for purposes of delivery services charges.  
2 Delivery services shall be priced and made available to all  
3 retail customers electing delivery services in each such class  
4 on a nondiscriminatory basis regardless of whether the retail  
5 customer chooses the electric utility, an affiliate of the  
6 electric utility, or another entity as its supplier of electric  
7 power and energy. Charges for delivery services shall be cost  
8 based, and shall allow the electric utility to recover the  
9 costs of providing delivery services through its charges to its  
10 delivery service customers that use the facilities and services  
11 associated with such costs. Such costs shall include the costs  
12 of owning, operating and maintaining transmission and  
13 distribution facilities. The Commission shall also be  
14 authorized to consider whether, and if so to what extent, the  
15 following costs are appropriately included in the electric  
16 utility's delivery services rates: (i) the costs of that  
17 portion of generation facilities used for the production and  
18 absorption of reactive power in order that retail customers  
19 located in the electric utility's service area can receive  
20 electric power and energy from suppliers other than the  
21 electric utility, and (ii) the costs associated with the use  
22 and redispatch of generation facilities to mitigate  
23 constraints on the transmission or distribution system in order  
24 that retail customers located in the electric utility's service  
25 area can receive electric power and energy from suppliers other  
26 than the electric utility. Nothing in this subsection shall be

1 construed as directing the Commission to allocate any of the  
2 costs described in (i) or (ii) that are found to be  
3 appropriately included in the electric utility's delivery  
4 services rates to any particular customer group or geographic  
5 area in setting delivery services rates.

6 (d) The Commission shall establish charges, terms and  
7 conditions for delivery services that are just and reasonable  
8 and shall take into account customer impacts when establishing  
9 such charges. In establishing charges, terms and conditions for  
10 delivery services, the Commission shall take into account  
11 voltage level differences. A retail customer shall have the  
12 option to request to purchase electric service at any delivery  
13 service voltage reasonably and technically feasible from the  
14 electric facilities serving that customer's premises provided  
15 that there are no significant adverse impacts upon system  
16 reliability or system efficiency. A retail customer shall also  
17 have the option to request to purchase electric service at any  
18 point of delivery that is reasonably and technically feasible  
19 provided that there are no significant adverse impacts on  
20 system reliability or efficiency. Such requests shall not be  
21 unreasonably denied.

22 (e) Electric utilities shall recover the costs of  
23 installing, operating or maintaining facilities for the  
24 particular benefit of one or more delivery services customers,  
25 including without limitation any costs incurred in complying  
26 with a customer's request to be served at a different voltage

1 level, directly from the retail customer or customers for whose  
2 benefit the costs were incurred, to the extent such costs are  
3 not recovered through the charges referred to in subsections  
4 (c) and (d) of this Section.

5 (f) An electric utility shall be entitled but not required  
6 to implement transition charges in conjunction with the  
7 offering of delivery services pursuant to Section 16-104. If an  
8 electric utility implements transition charges, it shall  
9 implement such charges for all delivery services customers and  
10 for all customers described in subsection (h), but shall not  
11 implement transition charges for power and energy that a retail  
12 customer takes from cogeneration or self-generation facilities  
13 located on that retail customer's premises, if such facilities  
14 meet the following criteria:

15 (i) the cogeneration or self-generation facilities  
16 serve a single retail customer and are located on that  
17 retail customer's premises (for purposes of this  
18 subparagraph and subparagraph (ii), an industrial or  
19 manufacturing retail customer and a third party contractor  
20 that is served by such industrial or manufacturing customer  
21 through such retail customer's own electrical distribution  
22 facilities under the circumstances described in subsection  
23 (vi) of the definition of "alternative retail electric  
24 supplier" set forth in Section 16-102, shall be considered  
25 a single retail customer);

26 (ii) the cogeneration or self-generation facilities

1       either (A) are sized pursuant to generally accepted  
2       engineering standards for the retail customer's electrical  
3       load at that premises (taking into account standby or other  
4       reliability considerations related to that retail  
5       customer's operations at that site) or (B) if the facility  
6       is a cogeneration facility located on the retail customer's  
7       premises, the retail customer is the thermal host for that  
8       facility and the facility has been designed to meet that  
9       retail customer's thermal energy requirements resulting in  
10      electrical output beyond that retail customer's electrical  
11      demand at that premises, comply with the operating and  
12      efficiency standards applicable to "qualifying facilities"  
13      specified in title 18 Code of Federal Regulations Section  
14      292.205 as in effect on the effective date of this  
15      amendatory Act of 1999;

16           (iii) the retail customer on whose premises the  
17      facilities are located either has an exclusive right to  
18      receive, and corresponding obligation to pay for, all of  
19      the electrical capacity of the facility, or in the case of  
20      a cogeneration facility that has been designed to meet the  
21      retail customer's thermal energy requirements at that  
22      premises, an identified amount of the electrical capacity  
23      of the facility, over a minimum 5-year period; and

24           (iv) if the cogeneration facility is sized for the  
25      retail customer's thermal load at that premises but exceeds  
26      the electrical load, any sales of excess power or energy

1           are made only at wholesale, are subject to the jurisdiction  
2           of the Federal Energy Regulatory Commission, and are not  
3           for the purpose of circumventing the provisions of this  
4           subsection (f).

5           If a generation facility located at a retail customer's  
6           premises does not meet the above criteria, an electric utility  
7           implementing transition charges shall implement a transition  
8           charge until December 31, 2006 for any power and energy taken  
9           by such retail customer from such facility as if such power and  
10          energy had been delivered by the electric utility. Provided,  
11          however, that an industrial retail customer that is taking  
12          power from a generation facility that does not meet the above  
13          criteria but that is located on such customer's premises will  
14          not be subject to a transition charge for the power and energy  
15          taken by such retail customer from such generation facility if  
16          the facility does not serve any other retail customer and  
17          either was installed on behalf of the customer and for its own  
18          use prior to January 1, 1997, or is both predominantly fueled  
19          by byproducts of such customer's manufacturing process at such  
20          premises and sells or offers an average of 300 megawatts or  
21          more of electricity produced from such generation facility into  
22          the wholesale market. Such charges shall be calculated as  
23          provided in Section 16-102, and shall be collected on each  
24          kilowatt-hour delivered under a delivery services tariff to a  
25          retail customer from the date the customer first takes delivery  
26          services until December 31, 2006 except as provided in

1 subsection (h) of this Section. Provided, however, that an  
2 electric utility, other than an electric utility providing  
3 service to at least 1,000,000 customers in this State on  
4 January 1, 1999, shall be entitled to petition for entry of an  
5 order by the Commission authorizing the electric utility to  
6 implement transition charges for an additional period ending no  
7 later than December 31, 2008. The electric utility shall file  
8 its petition with supporting evidence no earlier than 16  
9 months, and no later than 12 months, prior to December 31,  
10 2006. The Commission shall hold a hearing on the electric  
11 utility's petition and shall enter its order no later than 8  
12 months after the petition is filed. The Commission shall  
13 determine whether and to what extent the electric utility shall  
14 be authorized to implement transition charges for an additional  
15 period. The Commission may authorize the electric utility to  
16 implement transition charges for some or all of the additional  
17 period, and shall determine the mitigation factors to be used  
18 in implementing such transition charges; provided, that the  
19 Commission shall not authorize mitigation factors less than  
20 110% of those in effect during the 12 months ended December 31,  
21 2006. In making its determination, the Commission shall  
22 consider the following factors: the necessity to implement  
23 transition charges for an additional period in order to  
24 maintain the financial integrity of the electric utility; the  
25 prudence of the electric utility's actions in reducing its  
26 costs since the effective date of this amendatory Act of 1997;

1 the ability of the electric utility to provide safe, adequate  
2 and reliable service to retail customers in its service area;  
3 and the impact on competition of allowing the electric utility  
4 to implement transition charges for the additional period.

5 (g) The electric utility shall file tariffs that establish  
6 the transition charges to be paid by each class of customers to  
7 the electric utility in conjunction with the provision of  
8 delivery services. The electric utility's tariffs shall define  
9 the classes of its customers for purposes of calculating  
10 transition charges. The electric utility's tariffs shall  
11 provide for the calculation of transition charges on a  
12 customer-specific basis for any retail customer whose average  
13 monthly maximum electrical demand on the electric utility's  
14 system during the 6 months with the customer's highest monthly  
15 maximum electrical demands equals or exceeds 3.0 megawatts for  
16 electric utilities having more than 1,000,000 customers, and  
17 for other electric utilities for any customer that has an  
18 average monthly maximum electrical demand on the electric  
19 utility's system of one megawatt or more, and (A) for which  
20 there exists data on the customer's usage during the 3 years  
21 preceding the date that the customer became eligible to take  
22 delivery services, or (B) for which there does not exist data  
23 on the customer's usage during the 3 years preceding the date  
24 that the customer became eligible to take delivery services, if  
25 in the electric utility's reasonable judgment there exists  
26 comparable usage information or a sufficient basis to develop

1 such information, and further provided that the electric  
2 utility can require customers for which an individual  
3 calculation is made to sign contracts that set forth the  
4 transition charges to be paid by the customer to the electric  
5 utility pursuant to the tariff.

6 (h) An electric utility shall also be entitled to file  
7 tariffs that allow it to collect transition charges from retail  
8 customers in the electric utility's service area that do not  
9 take delivery services but that take electric power or energy  
10 from an alternative retail electric supplier or from an  
11 electric utility other than the electric utility in whose  
12 service area the customer is located. Such charges shall be  
13 calculated, in accordance with the definition of transition  
14 charges in Section 16-102, for the period of time that the  
15 customer would be obligated to pay transition charges if it  
16 were taking delivery services, except that no deduction for  
17 delivery services revenues shall be made in such calculation,  
18 and usage data from the customer's class shall be used where  
19 historical usage data is not available for the individual  
20 customer. The customer shall be obligated to pay such charges  
21 on a lump sum basis on or before the date on which the customer  
22 commences to take service from the alternative retail electric  
23 supplier or other electric utility, provided, that the electric  
24 utility in whose service area the customer is located shall  
25 offer the customer the option of signing a contract pursuant to  
26 which the customer pays such charges ratably over the period in

1 which the charges would otherwise have applied.

2 (i) An electric utility shall be entitled to add to the  
3 bills of delivery services customers charges pursuant to  
4 Sections 9-221, 9-222 (except as provided in Section 9-222.1),  
5 and Section 16-114 of this Act, Section 5-5 of the Electricity  
6 Infrastructure Maintenance Fee Law, Section 6-5 of the  
7 Renewable Energy, Energy Efficiency, and Coal Resources  
8 Development Law of 1997, and Section 13 of the Energy  
9 Assistance Act.

10 (j) If a retail customer that obtains electric power and  
11 energy from cogeneration or self-generation facilities  
12 installed for its own use on or before January 1, 1997,  
13 subsequently takes service from an alternative retail electric  
14 supplier or an electric utility other than the electric utility  
15 in whose service area the customer is located for any portion  
16 of the customer's electric power and energy requirements  
17 formerly obtained from those facilities (including that amount  
18 purchased from the utility in lieu of such generation and not  
19 as standby power purchases, under a cogeneration displacement  
20 tariff in effect as of the effective date of this amendatory  
21 Act of 1997), the transition charges otherwise applicable  
22 pursuant to subsections (f), (g), or (h) of this Section shall  
23 not be applicable in any year to that portion of the customer's  
24 electric power and energy requirements formerly obtained from  
25 those facilities, provided, that for purposes of this  
26 subsection (j), such portion shall not exceed the average

1 number of kilowatt-hours per year obtained from the  
2 cogeneration or self-generation facilities during the 3 years  
3 prior to the date on which the customer became eligible for  
4 delivery services, except as provided in subsection (f) of  
5 Section 16-110.

6 (k) The electric utility shall be entitled to recover  
7 through tariffed charges all of the costs associated with the  
8 purchase of zero emission credits from zero emission resources  
9 to meet the requirements of subsection (d-5) of Section 1-75 of  
10 the Illinois Power Agency Act. The costs shall be allocated  
11 across all retail customers through a single, uniform cents per  
12 kilowatt-hour charge applicable to all retail customers, which  
13 shall appear as a separate line item on each customer's bill.  
14 Beginning June 1, 2018, the electric utility shall be entitled  
15 to recover through tariffed charges all of the costs associated  
16 with the purchase of renewable energy resources to meet the  
17 renewable energy resource standards of subsection (c) of  
18 Section 1-75 of the Illinois Power Agency Act, pursuant to the  
19 electric utility's procurement plan as approved in accordance  
20 with Section 16-111.5 of this Act. The costs associated with  
21 the purchase of renewable energy resources shall be allocated  
22 across all retail customers in proportion to the amount of  
23 renewable energy resources the utility procures for such  
24 customers through a single, uniform cents per kilowatt-hour  
25 charge applicable to such retail customers, which shall appear  
26 as a separate line item on each such customer's bill.

1       The electric utility shall be entitled to recover all costs  
2 associated with the purchase of renewable energy resources and  
3 zero emission credits from zero emission resources through an  
4 automatic adjustment clause tariff applicable to all of the  
5 utility's retail customers that allows the electric utility to  
6 adjust its tarified charges on a quarterly basis for changes in  
7 its costs incurred to purchase such resources and credits, if  
8 any, without the need to file a general delivery services rate  
9 case. The electric utility's collections pursuant to such an  
10 automatic adjustment clause tariff shall be subject to annual  
11 review, reconciliation, and true-up against actual costs by the  
12 Commission pursuant to a procedure that shall be specified in  
13 the electric utility's automatic adjustment clause tariff and  
14 that shall be approved by the Commission in connection with its  
15 approval of such tariff. The procedure shall provide that any  
16 difference between the electric utility's collection pursuant  
17 to the automatic adjustment charge for an annual period and the  
18 electric utility's actual costs of renewable energy resources  
19 and zero emission credits from zero emission resources for that  
20 same annual period shall be refunded to or collected from, as  
21 applicable, the electric utility's retail customers in  
22 subsequent periods.

23       Nothing in this subsection (k) is intended to affect,  
24 limit, or change the right of the electric utility to recover  
25 the costs associated with the procurement of renewable energy  
26 resources for periods commencing before, on, or after June 1,

1 2018, as otherwise provided in the Illinois Power Agency Act.

2 (Source: P.A. 91-50, eff. 6-30-99; 92-690, eff. 7-18-02.)

3 (220 ILCS 5/16-108.9 new)

4 Sec. 16-108.9. Microgrid pilot.

5 (a) The General Assembly finds that the electric industry  
6 is undergoing rapid transformation, including fundamental  
7 changes regarding how electricity is generated, procured, and  
8 delivered and how customers are choosing to participate in the  
9 supply and delivery of electricity to and from the electric  
10 grid. Building upon the State's goals to increase the  
11 procurement of electricity from renewable energy resources and  
12 distributed generation, the General Assembly finds that it is  
13 now necessary to study how the electric grid could be enhanced  
14 through reliance on the diverse supply options being connected  
15 to the grid by traditional suppliers and new market  
16 participants, such as the utility's customers. Specifically,  
17 the General Assembly finds that these developments present  
18 unprecedented opportunities to strengthen the resilience and  
19 security of the electric grid, particularly with respect to the  
20 grid's support of the State's critical infrastructure  
21 dedicated to public safety and health purposes. The General  
22 Assembly therefore finds that it is beneficial to undertake the  
23 microgrid pilot described in this Section to explore a variety  
24 of objectives, including, but not limited to, (i) alternatives  
25 to upgrading the conventional electric grid, (ii) ways to

1 improve electric grid resiliency, security, and outage  
2 management for critical facilities and customers and thus  
3 reduce the frequency, duration, and cost of major outages, and  
4 (iii) how to improve the safety and security of critical  
5 electric infrastructure, including cyber security, for the  
6 benefit of the public.

7 (b) An electric utility serving more than 3,000,000 retail  
8 customers in Illinois may invest an estimated \$250,000,000 to  
9 develop, construct, and install up to 5 microgrids in its  
10 service territory over a 5-year period that commences upon the  
11 date of the Commission's approval of the plan, or approval of  
12 the plan on rehearing, whichever is later, submitted pursuant  
13 to subsection (d) of this Section. Notwithstanding such  
14 investment amount, a utility that elects to undertake the  
15 investment described in this subsection (b) shall also be  
16 authorized to study, operate, and maintain such microgrids.

17 An electric utility serving 3,000,000 or less retail  
18 customers but more than 500,000 retail customers in Illinois  
19 may invest a maximum of \$60,000,000 to develop, construct, and  
20 install one or more microgrids, as determined in the utility's  
21 sole discretion, in its service territory over a 5-year period  
22 that commences upon the date of the Commission's approval of  
23 the plan, or approval of the plan on rehearing, whichever is  
24 later, submitted pursuant to subsection (d) of this Section.  
25 Notwithstanding such investment amount, a utility that elects  
26 to undertake the investment described in this subsection (b)

1 shall also be authorized to study, operate, and maintain such  
2 microgrids.

3 For purposes of this Section, "microgrid" means a group of  
4 interconnected loads and distributed energy resources with  
5 clearly defined electrical boundaries that acts as a single  
6 controllable entity with respect to the grid and can connect  
7 and disconnect from the grid to enable it to operate in both  
8 grid-connected or island modes.

9 (1) The locations selected to be served by the  
10 microgrids shall include critical public health and safety  
11 facilities and critical infrastructure and transportation  
12 facilities that provide opportunities to study the  
13 operation and benefits of the microgrid. Facilities and  
14 locations may include, but are not limited to, the  
15 following: military; fire fighting; police; aviation;  
16 medical and health; HazMat; civil defense and public safety  
17 warning services; communications; radiological, chemical  
18 and other special weapons defense; water pumping and  
19 treatment facilities; and energy delivery. Nothing in this  
20 Section shall be interpreted to limit the utility's ability  
21 to coordinate with governmental agencies regarding the  
22 selection of locations and facilities to be served.  
23 Consistent with the provisions of this paragraph (1), an  
24 electric utility serving more than 3,000,000 retail  
25 customers in Illinois that elects to undertake the  
26 investment described in this Section may develop,

1 construct, operate, maintain, and study microgrids located  
2 at or within the following sites in its service territory:

3 (A) the Bronzeville community of Chicago, whose  
4 boundaries are approximately Pershing Road, 31st  
5 Street, King Drive and the Dan Ryan Expressway;

6 (B) the Illinois Medical District as defined by  
7 Section 1 of the Illinois Medical District Act;

8 (C) an airport, as that term is defined by the  
9 Illinois Aeronautics Act, that is located in Winnebago  
10 County;

11 (D) a county emergency and disaster services  
12 facility; and

13 (E) the water pumping and treatment facilities  
14 located in the city of Chicago Heights.

15 In the event one or more of the sites approved by the  
16 Commission pursuant to subsection (d) of this Section  
17 becomes unsuitable or unavailable to accommodate a  
18 microgrid project, the electric utility may select an  
19 alternative site or sites consistent with the provisions of  
20 this paragraph (1). If the utility selects an alternative  
21 site or sites, the utility shall submit an informational  
22 filing to the Commission that identifies the alternative  
23 site or sites within 90 days after such selection.

24 (2) Notwithstanding any law, rule, or order to the  
25 contrary, an electric utility that undertakes the  
26 investment authorized by this subsection (b):

1           (A) shall study electric generating plant and  
2           facilities and electric storage plant and facilities  
3           that are part of the microgrids, which may include, but  
4           not be limited to, the construction, installation,  
5           leasing, or ownership of the following technologies:  
6           (i) solar photovoltaic facilities; (ii) fuel cells;  
7           (iii) natural gas generation, including generation  
8           that utilizes combined heat and power; (iv) an  
9           electricity storage plant and facilities; (v)  
10           geothermal technologies; and (vi) wind turbines;

11           (B) shall be permitted to use the plant or  
12           facilities described in subparagraph (A) of this  
13           paragraph (2) as follows: (i) for distribution system  
14           purposes, (ii) as a source of power, energy, and  
15           ancillary services for retail customers located within  
16           the boundaries of the microgrid during interruptions  
17           of services on the distribution system serving the  
18           microgrid or such customers, provided that the use of  
19           the plant and facilities during these periods and the  
20           delivery of electric power and energy that they produce  
21           shall be considered and treated as a distribution  
22           system reliability function and not as a retail sale of  
23           power, and (iii) for sales of energy, power, heat,  
24           ancillary services, and other related products and  
25           services into any available markets, including, but  
26           not limited to, wholesale markets, provided that such

1       sales do not compromise operation of the microgrid; a  
2       utility's decision to make or refrain from making such  
3       sales in order to maintain the integrity of the  
4       microgrid shall not be an unreasonable or imprudent  
5       decision;

6           (C) may upgrade the delivery facilities in and  
7       supporting the areas served by and in the vicinity of  
8       the microgrid, including, but not limited to,  
9       constructing, installing, operating, and maintaining  
10       (i) multiple feeders to provide service within and to  
11       the microgrid, (ii) distribution automation and other  
12       smart grid facilities, which shall be incremental to  
13       the investment amounts set forth in Section 16-108.5 of  
14       this Act, and (iii) placing underground distribution  
15       facilities within and providing service to the  
16       microgrid; and

17           (D) shall not be required to obtain any  
18       certificates of public convenience and necessity under  
19       Section 8-406 of this Act or any approvals under  
20       Sections 9-212, 9-213, or 16-111.5 of this Act.

21       (c) An electric utility that elects to undertake the  
22       investment described in subsection (b) of this Section may, at  
23       its election, recover the costs of such investment through an  
24       automatic adjustment clause tariff or through a delivery  
25       services charge regardless of how the costs are classified on  
26       the utility's books and records of account. Regardless of which

1 cost recovery mechanism the electric utility elects, the  
2 utility shall earn a return on the balance of the related plant  
3 investment as of December 31 for a given year, less any related  
4 accumulated depreciation and any related deferred taxes, at an  
5 annual rate equal to the utility's weighted average cost of  
6 capital that includes, based on a year-end capital structure,  
7 the utility's actual cost of debt for the applicable calendar  
8 year and a cost of equity, which shall be calculated as the sum  
9 of the (i) the average for the applicable calendar year of the  
10 monthly average yields of 30-year U.S. Treasury bonds published  
11 by the Board of Governors of the Federal Reserve System in its  
12 weekly H.15 Statistical Release or successor publication and  
13 (ii) 580 basis points, including a revenue conversion factor  
14 calculated to recover or refund all additional income taxes  
15 that may be payable or receivable as a result of that return.

16 In the event the utility elects to file an automatic  
17 adjustment clause tariff, such tariff may be filed and  
18 established outside the context of a general rate case filing  
19 or a filing under subsection (c) or (d) of Section 16-108.5 of  
20 this Act. The Commission shall review and, after notice and  
21 hearing, by order approve or approve with modification the  
22 proposed tariff no later than 90 days after the filing of the  
23 tariff. A utility may elect to reflect the charges recovered  
24 through the tariff as a separate line item on customers' bills,  
25 but shall not be required to do so. A tariff approved and  
26 placed into effect pursuant to this Section shall remain in

1 effect at the discretion of the utility, and the utility may  
2 elect to withdraw the tariff at any time. At such time as the  
3 tariff ceases to be in effect, the utility shall recover its  
4 costs incurred pursuant to this Section through a delivery  
5 services charge regardless of how the costs are categorized or  
6 classified on the utility's books and records of account.

7 An electric utility that elects to undertake the investment  
8 described in subsection (b) of this Section shall also recover  
9 the costs it incurs to study, operate, and maintain the  
10 microgrid projects pursuant to this Section and may, at its  
11 election, recover such costs through an automatic adjustment  
12 clause tariff placed into effect pursuant to this Section, if  
13 applicable, or through its delivery services charges.

14 (d) If an electric utility elects to undertake the  
15 investment authorized by subsection (b) of this Section, then  
16 the utility shall submit to the Commission the utility's plan  
17 for developing, constructing, operating, and analyzing  
18 microgrids in its service territory for the 5-year period  
19 commencing upon the plan's approval, or approval of the plan on  
20 rehearing, whichever is later. Such plan shall describe:

21 (1) the utility's current projections for scope,  
22 microgrid locations and boundaries, schedule,  
23 expenditures, and staffing;

24 (2) the utility's projections regarding the sale into  
25 wholesale markets of power generated pursuant to the plant  
26 or facilities described in subparagraph (A) of paragraph

1       (2) of subsection (b) of this Section, including how such  
2       sales will be executed and revenues applied to offset the  
3       costs of the microgrid pilot; and

4       (3) the criteria, including specific performance  
5       metrics, for evaluating the extent to which the microgrids  
6       developed under this Section achieved the objectives set  
7       out in subsection (a) of this Section.

8       Within 90 days after the utility files its plan pursuant to  
9       this subsection (d), the Commission shall review and, after  
10       notice and hearing, enter an order approving the plan if it  
11       finds that the plan conforms to the requirements of this  
12       Section or, if the Commission finds that the plan does not  
13       conform to the requirements of this Section, the Commission  
14       must enter an order describing in detail the reasons for not  
15       approving the plan. The utility may resubmit its plan to  
16       address the Commission's concerns, and the Commission shall  
17       expeditiously review and by order approve the revised plan if  
18       it finds that the plan conforms to the requirements of this  
19       Section, provided that such order shall be entered no later  
20       than 90 days after the utility resubmits its plan.

21       No later than 90 days after the close of each plan year,  
22       the utility shall submit a report to the Commission that  
23       includes any updates to the plan, a schedule for the  
24       development of any proposed microgrids for the next plan year,  
25       the expenditures made for the prior plan year and cumulatively,  
26       an evaluation of the extent to which the objectives of this

1 microgrid pilot are being achieved, and the number of full-time  
2 equivalent jobs created for the prior plan year and  
3 cumulatively. Within 60 days after the utility files its annual  
4 report, the Commission may enter into an investigation of the  
5 report. If the Commission commences an investigation, it must,  
6 after notice and hearing, enter an order approving the report  
7 or approving the report with modification necessary to bring it  
8 into compliance with this Section no later than 180 days after  
9 the utility files such report. If the Commission does not  
10 initiate an investigation within 60 days after the utility  
11 files its annual report, then the filing shall be deemed  
12 accepted by the Commission.

13 The utility may continue operating, maintaining, and  
14 studying the microgrids developed and constructed pursuant to  
15 this Section following the end of the 5-year plan period, and  
16 the costs incurred by the utility regarding such continued  
17 operation, maintenance and studying and to comply with the  
18 requirements of this Section shall continue to be recoverable  
19 following the end of the 5-year plan period through the  
20 automatic adjustment clause tariff authorized by this Section  
21 or other cost recovery mechanism elected by the utility.  
22 However, any generating or storage facility that becomes  
23 inoperable after the initial 5-year period may not be replaced  
24 without the approval of the Commission unless the facility will  
25 be used solely for the purposes described in subparagraph (B)  
26 of paragraph (2) of subsection (b) of this Section.

1       To the extent feasible and consistent with State and  
2 federal law, the investments made pursuant to this Section  
3 should provide employment opportunities for all segments of the  
4 population and workforce, including minority-owned and  
5 female-owned business enterprises, and shall not, consistent  
6 with State and federal law, discriminate based on race or  
7 socioeconomic status.

8       (e) No later than 365 days following the end of the 5-year  
9 plan period, the electric utility shall submit its final report  
10 to the Commission evaluating the extent to which the objectives  
11 of this microgrid pilot have been achieved, reporting on its  
12 performance under the metrics established in the plan, and  
13 proposing any additional study or action required to continue  
14 the further development of microgrids in the electric utility's  
15 service territory. Thereafter, the Commission may convene a  
16 workshop or workshops to discuss the results of the evaluation  
17 reflected in the final report. In addition, an electric utility  
18 that serves more than 3,000,000 retail customers in the State  
19 shall demonstrate that it created an average of 50 full-time  
20 equivalent jobs in Illinois, per microgrid project, during the  
21 construction and operation of the microgrids over a 5-year  
22 period. The jobs shall include direct jobs, contractor  
23 positions, and induced jobs. If the Commission enters an order  
24 finding, after notice and hearing, that the utility did not  
25 satisfy its job commitment described in this subsection (e) for  
26 reasons that are reasonably within its control, then the

1 Commission shall also determine, after consideration of the  
2 evidence, including, but not limited to, evidence submitted by  
3 the Department of Commerce and Economic Opportunity and the  
4 utility, the deficiency in the number of full-time equivalent  
5 jobs due to such failure. The Commission shall notify the  
6 Department of any proceeding that is initiated pursuant to this  
7 subsection (e). For each full-time equivalent job deficiency  
8 that the Commission finds as set forth in this subsection (e),  
9 the utility shall, within 30 days after the entry of the  
10 Commission's order, pay \$6,000 to a fund for training grants  
11 administered under Section 605-800 of the Department of  
12 Commerce and Economic Opportunity Law, which shall not be a  
13 recoverable expense.

14 No later than 365 days following the date on which the  
15 utility submits its final report pursuant to this subsection  
16 (e), the Commission shall submit a report to the General  
17 Assembly evaluating the extent to which the objectives of the  
18 microgrid pilot have been achieved, reporting on the utility's  
19 performance under the metrics established in its plan, and  
20 proposing any additional study or action required to continue  
21 the further development of microgrids in the utility's service  
22 territory.

23 (f) In no event, absent General Assembly approval, shall  
24 the capital investment costs incurred by an electric utility  
25 pursuant to this Section exceed \$300,000,000 for a utility that  
26 serves more than 3,000,000 retail customers in the State. If

1 the utility's updated cost estimates for implementing its plan  
2 exceed the limitation imposed by this subsection (f), then it  
3 shall submit a report to the Commission that identifies the  
4 increased costs and explains the reason or reasons for the  
5 increased costs no later than the year in which the utility  
6 estimates it will exceed the limitation. The Commission shall  
7 review the report and shall, within 90 days after the utility  
8 files the report, report to the General Assembly its findings  
9 regarding the utility's report. If the General Assembly does  
10 not amend the limitation imposed by this subsection (f), then  
11 the utility may modify its plan so as not to exceed the  
12 limitation imposed by this subsection (f) and may propose  
13 corresponding changes in its plan, and the Commission may  
14 modify the metrics established pursuant to this Section  
15 accordingly.

16 (g) All facilities and equipment installed pursuant to this  
17 Section shall be considered and functionalized for ratemaking  
18 purposes as distribution facilities and equipment for purposes  
19 of Articles IX and XVI of this Act, and the expense of  
20 operating, maintaining, and studying such facilities shall be  
21 considered and functionalized for ratemaking purposes as  
22 distribution expense regardless of how the facilities,  
23 equipment, and costs are categorized or classified on the  
24 utility's books and records of account.

25 (h) Nothing in this Section is intended to limit or expand  
26 the ability of any other entity to develop, construct, or

1 install a microgrid. In addition, nothing in this Section is  
2 intended to limit, expand, or alter otherwise applicable  
3 interconnection requirements.

4 (220 ILCS 5/16-108.10 new)

5 Sec. 16-108.10. Energy low-income and support program.  
6 Beginning in 2017, without obtaining any approvals from the  
7 Commission or any other agency, regardless of whether any such  
8 approval would otherwise be required, a participating utility  
9 that is not a combination utility, as defined by Section  
10 16-108.5 of this Act, shall contribute \$10,000,000 per year for  
11 5 years to the energy low-income and support program, which is  
12 intended to fund customer assistance programs with the primary  
13 purpose being avoidance of imminent disconnection and  
14 reconnecting customers who have been disconnected for  
15 non-payment. Such programs may include:

16 (1) a residential hardship program that may partner  
17 with community-based organizations, including senior  
18 citizen organizations, and provides grants to low-income  
19 residential customers, including low-income senior  
20 citizens, who demonstrate a hardship;

21 (2) a program that provides grants and other bill  
22 payment concessions to disabled veterans who demonstrate a  
23 hardship and members of the armed services or reserve  
24 forces of the United States or members of the Illinois  
25 National Guard who are on active duty pursuant to an

1 executive order of the President of the United States, an  
2 act of the Congress of the United States, or an order of  
3 the Governor and who demonstrate a hardship;

4 (3) a budget assistance program that provides tools and  
5 education to low-income senior citizens to assist them with  
6 obtaining information regarding energy usage and effective  
7 means of managing energy costs;

8 (4) a non-residential special hardship program that  
9 provides grants to non-residential customers, such as  
10 small businesses and non-profit organizations, that  
11 demonstrate a hardship, including those providing services  
12 to senior citizen and low-income customers; and

13 (5) a performance-based assistance program that  
14 provides grants to encourage residential customers to make  
15 on-time payments by matching a portion of the customer's  
16 payments or providing credits towards arrearages.

17 The payments made by a participating utility pursuant to  
18 this Section shall not be a recoverable expense. A  
19 participating utility may elect to fund either new or existing  
20 customer assistance programs, including, but not limited to,  
21 those that are administered by the utility.

22 Programs that use funds that are provided by an electric  
23 utility to reduce utility bills may be implemented through  
24 tariffs that are filed with and reviewed by the Commission. If  
25 a utility elects to file tariffs with the Commission to  
26 implement all or a portion of the programs, those tariffs

1 shall, regardless of the date actually filed, be deemed  
2 accepted and approved and shall become effective on the first  
3 business day after they are filed. The electric utilities whose  
4 customers benefit from the funds that are disbursed as  
5 contemplated in this Section shall file annual reports  
6 documenting the disbursement of those funds with the  
7 Commission. The Commission may audit disbursement of the funds  
8 to ensure they were disbursed consistently with this Section.

9 If the Commission finds that a participating utility is no  
10 longer eligible to update the performance-based formula rate  
11 tariff pursuant to subsection (d) of Section 16-108.5 of this  
12 Act or the performance-based formula rate is otherwise  
13 terminated, then the participating utility's obligations under  
14 this Section shall immediately terminate.

15 (220 ILCS 5/16-111.5)

16 Sec. 16-111.5. Provisions relating to procurement.

17 (a) An electric utility that on December 31, 2005 served at  
18 least 100,000 customers in Illinois shall procure power and  
19 energy for its eligible retail customers in accordance with the  
20 applicable provisions set forth in Section 1-75 of the Illinois  
21 Power Agency Act and this Section. Beginning with the planning  
22 year commencing on June 1, 2017, such electric utility shall  
23 also procure zero emission credits from zero emission resources  
24 for all retail customers in its service territory in accordance  
25 with the applicable provisions set forth in Section 1-75 of the

1 Illinois Power Agency Act, and, for years beginning on or after  
2 June 1, 2018, the utility shall procure renewable energy  
3 resources for all of the utility's retail customers in its  
4 service territory in accordance with the applicable provisions  
5 set forth in Section 1-75 of the Illinois Power Agency Act and  
6 this Section. A small multi-jurisdictional electric utility  
7 that on December 31, 2005 served less than 100,000 customers in  
8 Illinois may elect to procure power and energy for all or a  
9 portion of its eligible Illinois retail customers in accordance  
10 with the applicable provisions set forth in this Section and  
11 Section 1-75 of the Illinois Power Agency Act. This Section  
12 shall not apply to a small multi-jurisdictional utility until  
13 such time as a small multi-jurisdictional utility requests the  
14 Illinois Power Agency to prepare a procurement plan for its  
15 eligible retail customers. "Eligible retail customers" for the  
16 purposes of this Section means those retail customers that  
17 purchase power and energy from the electric utility under  
18 fixed-price bundled service tariffs, other than those retail  
19 customers whose service is declared or deemed competitive under  
20 Section 16-113 and those other customer groups specified in  
21 this Section, including self-generating customers, customers  
22 electing hourly pricing, or those customers who are otherwise  
23 ineligible for fixed-price bundled tariff service. For those  
24 ~~These~~ customers that are excluded from the ~~definition of~~  
25 ~~"eligible retail customers"~~ shall not be included in the  
26 procurement plan's electric supply service plan ~~load~~

1 requirements, ~~and~~ the utility shall procure any supply  
2 requirements, including capacity, ancillary services, and  
3 hourly priced energy, in the applicable markets as needed to  
4 serve those customers, provided that the utility may include in  
5 its procurement plan load requirements for the load that is  
6 associated with those retail customers whose service has been  
7 declared or deemed competitive pursuant to Section 16-113 of  
8 this Act to the extent that those customers are purchasing  
9 power and energy during one of the transition periods  
10 identified in subsection (b) of Section 16-113 of this Act.

11 (b) A procurement plan shall be prepared for each electric  
12 utility consistent with the applicable requirements of the  
13 Illinois Power Agency Act and this Section. For purposes of  
14 this Section, Illinois electric utilities that are affiliated  
15 by virtue of a common parent company are considered to be a  
16 single electric utility. Small multi-jurisdictional utilities  
17 may request a procurement plan for a portion of or all of its  
18 Illinois load. Each procurement plan shall analyze the  
19 projected balance of supply and demand for those retail  
20 customers to be included in the plan's electric supply service  
21 requirements, eligible retail customers over a 5-year period,  
22 with the first planning year beginning on June 1 of the year  
23 following the year in which the plan is filed. The plan shall  
24 specifically identify the wholesale products to be procured  
25 following plan approval, and shall follow all the requirements  
26 set forth in the Public Utilities Act and all applicable State

1 and federal laws, statutes, rules, or regulations, as well as  
2 Commission orders. Nothing in this Section precludes  
3 consideration of contracts longer than 5 years and related  
4 forecast data. Unless specified otherwise in this Section, in  
5 the procurement plan or in the implementing tariff, any  
6 procurement occurring in accordance with this plan shall be  
7 competitively bid through a request for proposals process.  
8 Approval and implementation of the procurement plan shall be  
9 subject to review and approval by the Commission according to  
10 the provisions set forth in this Section. A procurement plan  
11 shall include each of the following components:

12 (1) Hourly load analysis. This analysis shall include:

13 (i) multi-year historical analysis of hourly  
14 loads;

15 (ii) switching trends and competitive retail  
16 market analysis;

17 (iii) known or projected changes to future loads;

18 and

19 (iv) growth forecasts by customer class.

20 (2) Analysis of the impact of any demand side and  
21 renewable energy initiatives. This analysis shall include:

22 (i) the impact of demand response programs and  
23 energy efficiency programs, both current and  
24 projected; for small multi-jurisdictional utilities,  
25 the impact of demand response and energy efficiency  
26 programs approved pursuant to Section 8-408 of this

1 Act, both current and projected; and

2 (ii) supply side needs that are projected to be  
3 offset by purchases of renewable energy resources, if  
4 any.

5 (3) A plan for meeting the expected load requirements  
6 that will not be met through preexisting contracts. This  
7 plan shall include:

8 (i) definitions of the different Illinois retail  
9 customer classes for which supply is being purchased;

10 (ii) the proposed mix of demand-response products  
11 for which contracts will be executed during the next  
12 year. For small multi-jurisdictional electric  
13 utilities that on December 31, 2005 served fewer than  
14 100,000 customers in Illinois, these shall be defined  
15 as demand-response products offered in an energy  
16 efficiency plan approved pursuant to Section 8-408 of  
17 this Act. The cost-effective demand-response measures  
18 shall be procured whenever the cost is lower than  
19 procuring comparable capacity products, provided that  
20 such products shall:

21 (A) be procured by a demand-response provider  
22 from those eligible retail customers included in  
23 the plan's electric supply service requirements;

24 (B) at least satisfy the demand-response  
25 requirements of the regional transmission  
26 organization market in which the utility's service

1           territory is located, including, but not limited  
2           to, any applicable capacity or dispatch  
3           requirements;

4           (C) provide for customers' participation in  
5           the stream of benefits produced by the  
6           demand-response products;

7           (D) provide for reimbursement by the  
8           demand-response provider of the utility for any  
9           costs incurred as a result of the failure of the  
10          supplier of such products to perform its  
11          obligations thereunder; and

12          (E) meet the same credit requirements as apply  
13          to suppliers of capacity, in the applicable  
14          regional transmission organization market;

15          (iii) monthly forecasted system supply  
16          requirements, including expected minimum, maximum, and  
17          average values for the planning period;

18          (iv) the proposed mix and selection of standard  
19          wholesale products for which contracts will be  
20          executed during the next year, separately or in  
21          combination, to meet that portion of its load  
22          requirements not met through pre-existing contracts,  
23          including but not limited to monthly 5 x 16 peak period  
24          block energy, monthly off-peak wrap energy, monthly 7 x  
25          24 energy, annual 5 x 16 energy, annual off-peak wrap  
26          energy, annual 7 x 24 energy, monthly capacity, annual

1 capacity, peak load capacity obligations, capacity  
2 purchase plan, and ancillary services;

3 (v) proposed term structures for each wholesale  
4 product type included in the proposed procurement plan  
5 portfolio of products; and

6 (vi) an assessment of the price risk, load  
7 uncertainty, and other factors that are associated  
8 with the proposed procurement plan; this assessment,  
9 to the extent possible, shall include an analysis of  
10 the following factors: contract terms, time frames for  
11 securing products or services, fuel costs, weather  
12 patterns, transmission costs, market conditions, and  
13 the governmental regulatory environment; the proposed  
14 procurement plan shall also identify alternatives for  
15 those portfolio measures that are identified as having  
16 significant price risk.

17 (4) Proposed procedures for balancing loads. The  
18 procurement plan shall include, for load requirements  
19 included in the procurement plan, the process for (i)  
20 hourly balancing of supply and demand and (ii) the criteria  
21 for portfolio re-balancing in the event of significant  
22 shifts in load.

23 (5) Renewable energy resources plan. The procurement  
24 plan shall include a renewable energy resources plan that  
25 shall ensure adequate, reliable, affordable, efficient,  
26 and environmentally sustainable renewable energy resources

1 at the lowest total cost over time, taking into account any  
2 benefits of price stability. The renewable energy  
3 resources plan shall include:

4 (i) a description of the renewable energy  
5 resources, including renewable energy credits proposed  
6 to be procured pursuant to Section 1-56 and subsection  
7 (c) of Section 1-75 of the Illinois Power Agency Act;

8 (ii) a planning horizon and a comparison of the  
9 projected costs and benefits of procuring renewable  
10 resources for various contract terms based on market  
11 evidence; and

12 (iii) an explanation of how the Illinois Power  
13 Agency plans to utilize available funds for its planned  
14 renewable energy procurement, identifying specifically  
15 the source of funds to be used, including the Illinois  
16 Power Agency Renewable Energy Resources Fund, moneys  
17 accumulated by the electric utility in respect of  
18 service to customers under hourly pricing tariffs  
19 pursuant to paragraph (5) of subsection (c) of Section  
20 1-75 of the Illinois Power Agency Act, alternative  
21 compliance payments remitted to the electric utility  
22 pursuant to Section 16-115D of the Public Utilities  
23 Act, and any other moneys to be collected by the  
24 electric utility for procurements conducted pursuant  
25 to paragraph (1) of subsection (c) of Section 1-75 of  
26 the Illinois Power Agency Act. Available funds shall be

1           prioritized as follows: new long-term contracts for  
2           renewable energy resources procured from photovoltaic  
3           distribution generation resources; new long-term  
4           contracts for renewable energy resources procured from  
5           brownfield site projects or utility scale photovoltaic  
6           projects; and other one-year contracts for wind and  
7           other renewable energy resources.

8           (c) The procurement process set forth in Section 1-75 of  
9           the Illinois Power Agency Act and subsection (e) of this  
10          Section shall be administered by a procurement administrator  
11          and monitored by a procurement monitor.

12           (1) The procurement administrator shall:

13           (i) design the final procurement process in  
14           accordance with Section 1-75 of the Illinois Power  
15           Agency Act and subsection (e) of this Section following  
16           Commission approval of the procurement plan;

17           (ii) develop benchmarks in accordance with  
18           subsection (e)(3) to be used to evaluate bids; these  
19           benchmarks shall be submitted to the Commission for  
20           review and approval on a confidential basis prior to  
21           the procurement event;

22           (iii) serve as the interface between the electric  
23           utility and suppliers;

24           (iv) manage the bidder pre-qualification and  
25           registration process;

26           (v) obtain the electric utilities' agreement to

1 the final form of all supply contracts and credit  
2 collateral agreements;

3 (vi) administer the request for proposals process;

4 (vii) have the discretion to negotiate to  
5 determine whether bidders are willing to lower the  
6 price of bids that meet the benchmarks approved by the  
7 Commission; any post-bid negotiations with bidders  
8 shall be limited to price only and shall be completed  
9 within 24 hours after opening the sealed bids and shall  
10 be conducted in a fair and unbiased manner; in  
11 conducting the negotiations, there shall be no  
12 disclosure of any information derived from proposals  
13 submitted by competing bidders; if information is  
14 disclosed to any bidder, it shall be provided to all  
15 competing bidders;

16 (viii) maintain confidentiality of supplier and  
17 bidding information in a manner consistent with all  
18 applicable laws, rules, regulations, and tariffs;

19 (ix) submit a confidential report to the  
20 Commission recommending acceptance or rejection of  
21 bids;

22 (x) notify the utility of contract counterparties  
23 and contract specifics; and

24 (xi) administer related contingency procurement  
25 events.

26 (2) The procurement monitor, who shall be retained by

1 the Commission, shall:

2 (i) monitor interactions among the procurement  
3 administrator, suppliers, and utility;

4 (ii) monitor and report to the Commission on the  
5 progress of the procurement process;

6 (iii) provide an independent confidential report  
7 to the Commission regarding the results of the  
8 procurement event;

9 (iv) assess compliance with the procurement plans  
10 approved by the Commission for each utility that on  
11 December 31, 2005 provided electric service to a least  
12 100,000 customers in Illinois and for each small  
13 multi-jurisdictional utility that on December 31, 2005  
14 served less than 100,000 customers in Illinois;

15 (v) preserve the confidentiality of supplier and  
16 bidding information in a manner consistent with all  
17 applicable laws, rules, regulations, and tariffs;

18 (vi) provide expert advice to the Commission and  
19 consult with the procurement administrator regarding  
20 issues related to procurement process design, rules,  
21 protocols, and policy-related matters; and

22 (vii) consult with the procurement administrator  
23 regarding the development and use of benchmark  
24 criteria, standard form contracts, credit policies,  
25 and bid documents.

26 (d) Except as provided in subsection (j), the planning

1 process shall be conducted as follows:

2 (1) Beginning in 2008, each Illinois utility procuring  
3 power pursuant to this Section shall annually provide a  
4 range of load forecasts to the Illinois Power Agency by  
5 July 15 of each year, or such other date as may be required  
6 by the Commission or Agency. The load forecasts shall cover  
7 the 5-year procurement planning period for the next  
8 procurement plan and shall include hourly data  
9 representing a high-load, low-load and expected-load  
10 scenario for the load of those ~~the eligible~~ retail  
11 customers included in the plan's electric supply service  
12 requirements. The utility shall provide supporting data  
13 and assumptions for each of the scenarios.

14 (2) Beginning in 2008, the Illinois Power Agency shall  
15 prepare a procurement plan by August 15th of each year, or  
16 such other date as may be required by the Commission. The  
17 procurement plan shall identify the portfolio of  
18 demand-response and power and energy products to be  
19 procured. Cost-effective demand-response measures shall be  
20 procured as set forth in item (iii) of subsection (b) of  
21 this Section. Copies of the procurement plan shall be  
22 posted and made publicly available on the Agency's and  
23 Commission's websites, and copies shall also be provided to  
24 each affected electric utility. An affected utility shall  
25 have 30 days following the date of posting to provide  
26 comment to the Agency on the procurement plan. Other

1 interested entities also may comment on the procurement  
2 plan. All comments submitted to the Agency shall be  
3 specific, supported by data or other detailed analyses,  
4 and, if objecting to all or a portion of the procurement  
5 plan, accompanied by specific alternative wording or  
6 proposals. All comments shall be posted on the Agency's and  
7 Commission's websites. During this 30-day comment period,  
8 the Agency shall hold at least one public hearing within  
9 each utility's service area for the purpose of receiving  
10 public comment on the procurement plan. Within 14 days  
11 following the end of the 30-day review period, the Agency  
12 shall revise the procurement plan as necessary based on the  
13 comments received and file the procurement plan with the  
14 Commission and post the procurement plan on the websites.

15 (3) Within 5 days after the filing of the procurement  
16 plan, any person objecting to the procurement plan shall  
17 file an objection with the Commission. Within 10 days after  
18 the filing, the Commission shall determine whether a  
19 hearing is necessary. The Commission shall enter its order  
20 confirming or modifying the procurement plan within 90 days  
21 after the filing of the procurement plan by the Illinois  
22 Power Agency.

23 (4) The Commission shall approve the procurement plan,  
24 including expressly the forecast used in the procurement  
25 plan, if the Commission determines that it will ensure  
26 adequate, reliable, affordable, efficient, and

1 environmentally sustainable electric service at the lowest  
2 total cost over time, taking into account any benefits of  
3 price stability.

4 (e) The procurement process shall include each of the  
5 following components:

6 (1) Solicitation, pre-qualification, and registration  
7 of bidders. The procurement administrator shall  
8 disseminate information to potential bidders to promote a  
9 procurement event, notify potential bidders that the  
10 procurement administrator may enter into a post-bid price  
11 negotiation with bidders that meet the applicable  
12 benchmarks, provide supply requirements, and otherwise  
13 explain the competitive procurement process. In addition  
14 to such other publication as the procurement administrator  
15 determines is appropriate, this information shall be  
16 posted on the Illinois Power Agency's and the Commission's  
17 websites. The procurement administrator shall also  
18 administer the prequalification process, including  
19 evaluation of credit worthiness, compliance with  
20 procurement rules, and agreement to the standard form  
21 contract developed pursuant to paragraph (2) of this  
22 subsection (e). The procurement administrator shall then  
23 identify and register bidders to participate in the  
24 procurement event.

25 (2) Standard contract forms and credit terms and  
26 instruments. The procurement administrator, in

1       consultation with the utilities, the Commission, and other  
2       interested parties and subject to Commission oversight,  
3       shall develop and provide standard contract forms for the  
4       supplier contracts that meet generally accepted industry  
5       practices. Standard credit terms and instruments that meet  
6       generally accepted industry practices shall be similarly  
7       developed. The procurement administrator shall make  
8       available to the Commission all written comments it  
9       receives on the contract forms, credit terms, or  
10      instruments. If the procurement administrator cannot reach  
11      agreement with the applicable electric utility as to the  
12      contract terms and conditions, the procurement  
13      administrator must notify the Commission of any disputed  
14      terms and the Commission shall resolve the dispute. The  
15      terms of the contracts shall not be subject to negotiation  
16      by winning bidders, and the bidders must agree to the terms  
17      of the contract in advance so that winning bids are  
18      selected solely on the basis of price.

19           (3) Establishment of a market-based price benchmark.  
20      As part of the development of the procurement process, the  
21      procurement administrator, in consultation with the  
22      Commission staff, Agency staff, and the procurement  
23      monitor, shall establish benchmarks for evaluating the  
24      final prices in the contracts for each of the products that  
25      will be procured through the procurement process. The  
26      benchmarks shall be based on price data for similar

1 products for the same delivery period and same delivery  
2 hub, or other delivery hubs after adjusting for that  
3 difference. The price benchmarks may also be adjusted to  
4 take into account differences between the information  
5 reflected in the underlying data sources and the specific  
6 products and procurement process being used to procure  
7 power for the Illinois utilities. The benchmarks shall be  
8 confidential but shall be provided to, and will be subject  
9 to Commission review and approval, prior to a procurement  
10 event.

11 (4) Request for proposals competitive procurement  
12 process. The procurement administrator shall design and  
13 issue a request for proposals to supply electricity in  
14 accordance with each utility's procurement plan, as  
15 approved by the Commission. The request for proposals shall  
16 set forth a procedure for sealed, binding commitment  
17 bidding with pay-as-bid settlement, and provision for  
18 selection of bids on the basis of price.

19 (5) A plan for implementing contingencies in the event  
20 of supplier default or failure of the procurement process  
21 to fully meet the expected load requirement due to  
22 insufficient supplier participation, Commission rejection  
23 of results, or any other cause.

24 (i) Event of supplier default: In the event of  
25 supplier default, the utility shall review the  
26 contract of the defaulting supplier to determine if the

1 amount of supply is 200 megawatts or greater, and if  
2 there are more than 60 days remaining of the contract  
3 term. If both of these conditions are met, and the  
4 default results in termination of the contract, the  
5 utility shall immediately notify the Illinois Power  
6 Agency that a request for proposals must be issued to  
7 procure replacement power, and the procurement  
8 administrator shall run an additional procurement  
9 event. If the contracted supply of the defaulting  
10 supplier is less than 200 megawatts or there are less  
11 than 60 days remaining of the contract term, the  
12 utility shall procure power and energy from the  
13 applicable regional transmission organization market,  
14 including ancillary services, capacity, and day-ahead  
15 or real time energy, or both, for the duration of the  
16 contract term to replace the contracted supply;  
17 provided, however, that if a needed product is not  
18 available through the regional transmission  
19 organization market it shall be purchased from the  
20 wholesale market.

21 (ii) Failure of the procurement process to fully  
22 meet the expected load requirement: If the procurement  
23 process fails to fully meet the expected load  
24 requirement due to insufficient supplier participation  
25 or due to a Commission rejection of the procurement  
26 results, the procurement administrator, the

1 procurement monitor, and the Commission staff shall  
2 meet within 10 days to analyze potential causes of low  
3 supplier interest or causes for the Commission  
4 decision. If changes are identified that would likely  
5 result in increased supplier participation, or that  
6 would address concerns causing the Commission to  
7 reject the results of the prior procurement event, the  
8 procurement administrator may implement those changes  
9 and rerun the request for proposals process according  
10 to a schedule determined by those parties and  
11 consistent with Section 1-75 of the Illinois Power  
12 Agency Act and this subsection. In any event, a new  
13 request for proposals process shall be implemented by  
14 the procurement administrator within 90 days after the  
15 determination that the procurement process has failed  
16 to fully meet the expected load requirement.

17 (iii) In all cases where there is insufficient  
18 supply provided under contracts awarded through the  
19 procurement process to fully meet the electric  
20 utility's load requirement, the utility shall meet the  
21 load requirement by procuring power and energy from the  
22 applicable regional transmission organization market,  
23 including ancillary services, capacity, and day-ahead  
24 or real time energy or both; provided, however, that if  
25 a needed product is not available through the regional  
26 transmission organization market it shall be purchased

1 from the wholesale market.

2 (6) The procurement process described in this  
3 subsection is exempt from the requirements of the Illinois  
4 Procurement Code, pursuant to Section 20-10 of that Code.

5 (f) Within 2 business days after opening the sealed bids,  
6 the procurement administrator shall submit a confidential  
7 report to the Commission. The report shall contain the results  
8 of the bidding for each of the products along with the  
9 procurement administrator's recommendation for the acceptance  
10 and rejection of bids based on the price benchmark criteria and  
11 other factors observed in the process. The procurement monitor  
12 also shall submit a confidential report to the Commission  
13 within 2 business days after opening the sealed bids. The  
14 report shall contain the procurement monitor's assessment of  
15 bidder behavior in the process as well as an assessment of the  
16 procurement administrator's compliance with the procurement  
17 process and rules. The Commission shall review the confidential  
18 reports submitted by the procurement administrator and  
19 procurement monitor, and shall accept or reject the  
20 recommendations of the procurement administrator within 2  
21 business days after receipt of the reports.

22 (g) Within 3 business days after the Commission decision  
23 approving the results of a procurement event, the utility shall  
24 enter into binding contractual arrangements with the winning  
25 suppliers using the standard form contracts; except that the  
26 utility shall not be required either directly or indirectly to

1 execute the contracts if a tariff that is consistent with  
2 subsection (l) of this Section has not been approved and placed  
3 into effect for that utility.

4 (h) The names of the successful bidders and the load  
5 weighted average of the winning bid prices for each contract  
6 type and for each contract term shall be made available to the  
7 public at the time of Commission approval of a procurement  
8 event. The Commission, the procurement monitor, the  
9 procurement administrator, the Illinois Power Agency, and all  
10 participants in the procurement process shall maintain the  
11 confidentiality of all other supplier and bidding information  
12 in a manner consistent with all applicable laws, rules,  
13 regulations, and tariffs. Confidential information, including  
14 the confidential reports submitted by the procurement  
15 administrator and procurement monitor pursuant to subsection  
16 (f) of this Section, shall not be made publicly available and  
17 shall not be discoverable by any party in any proceeding,  
18 absent a compelling demonstration of need, nor shall those  
19 reports be admissible in any proceeding other than one for law  
20 enforcement purposes.

21 (i) Within 2 business days after a Commission decision  
22 approving the results of a procurement event or such other date  
23 as may be required by the Commission from time to time, the  
24 utility shall file for informational purposes with the  
25 Commission its actual or estimated retail supply charges, as  
26 applicable, by customer supply group reflecting the costs

1 associated with the procurement and computed in accordance with  
2 the tariffs filed pursuant to subsection (l) of this Section  
3 and approved by the Commission.

4 (j) Within 60 days following the effective date of this  
5 amendatory Act, each electric utility that on December 31, 2005  
6 provided electric service to at least 100,000 customers in  
7 Illinois shall prepare and file with the Commission an initial  
8 procurement plan, which shall conform in all material respects  
9 to the requirements of the procurement plan set forth in  
10 subsection (b); provided, however, that the Illinois Power  
11 Agency Act shall not apply to the initial procurement plan  
12 prepared pursuant to this subsection. The initial procurement  
13 plan shall identify the portfolio of power and energy products  
14 to be procured and delivered for the period June 2008 through  
15 May 2009, and shall identify the proposed procurement  
16 administrator, who shall have the same experience and expertise  
17 as is required of a procurement administrator hired pursuant to  
18 Section 1-75 of the Illinois Power Agency Act. Copies of the  
19 procurement plan shall be posted and made publicly available on  
20 the Commission's website. The initial procurement plan may  
21 include contracts for renewable resources that extend beyond  
22 May 2009.

23 (i) Within 14 days following filing of the initial  
24 procurement plan, any person may file a detailed objection  
25 with the Commission contesting the procurement plan  
26 submitted by the electric utility. All objections to the

1 electric utility's plan shall be specific, supported by  
2 data or other detailed analyses. The electric utility may  
3 file a response to any objections to its procurement plan  
4 within 7 days after the date objections are due to be  
5 filed. Within 7 days after the date the utility's response  
6 is due, the Commission shall determine whether a hearing is  
7 necessary. If it determines that a hearing is necessary, it  
8 shall require the hearing to be completed and issue an  
9 order on the procurement plan within 60 days after the  
10 filing of the procurement plan by the electric utility.

11 (ii) The order shall approve or modify the procurement  
12 plan, approve an independent procurement administrator,  
13 and approve or modify the electric utility's tariffs that  
14 are proposed with the initial procurement plan. The  
15 Commission shall approve the procurement plan if the  
16 Commission determines that it will ensure adequate,  
17 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.

20 (k) In order to promote price stability for residential and  
21 small commercial customers during the transition to  
22 competition in Illinois, and notwithstanding any other  
23 provision of this Act, each electric utility subject to this  
24 Section shall enter into one or more multi-year financial swap  
25 contracts that become effective on the effective date of this  
26 amendatory Act. These contracts may be executed with generators

1 and power marketers, including affiliated interests of the  
2 electric utility. These contracts shall be for a term of no  
3 more than 5 years and shall, for each respective utility or for  
4 any Illinois electric utilities that are affiliated by virtue  
5 of a common parent company and that are thereby considered a  
6 single electric utility for purposes of this subsection (k),  
7 not exceed in the aggregate 3,000 megawatts for any hour of the  
8 year. The contracts shall be financial contracts and not energy  
9 sales contracts. The contracts shall be executed as  
10 transactions under a negotiated master agreement based on the  
11 form of master agreement for financial swap contracts sponsored  
12 by the International Swaps and Derivatives Association, Inc.  
13 and shall be considered pre-existing contracts in the  
14 utilities' procurement plans for residential and small  
15 commercial customers. Costs incurred pursuant to a contract  
16 authorized by this subsection (k) shall be deemed prudently  
17 incurred and reasonable in amount and the electric utility  
18 shall be entitled to full cost recovery pursuant to the tariffs  
19 filed with the Commission.

20 (k-5) In order to promote price stability for residential  
21 and small commercial customers during the infrastructure  
22 investment program described in subsection (b) of Section  
23 16-108.5 of this Act, and notwithstanding any other provision  
24 of this Act or the Illinois Power Agency Act, for each electric  
25 utility that serves more than one million retail customers in  
26 Illinois, the Illinois Power Agency shall conduct a procurement

1 event within 120 days after October 26, 2011 (the effective  
2 date of Public Act 97-616) and may procure contracts for energy  
3 and renewable energy credits for the period June 1, 2013  
4 through December 31, 2017 that satisfy the requirements of this  
5 subsection (k-5), including the benchmarks described in this  
6 subsection. These contracts shall be entered into as the result  
7 of a competitive procurement event, and, to the extent that any  
8 provisions of this Section or the Illinois Power Agency Act do  
9 not conflict with this subsection (k-5), such provisions shall  
10 apply to the procurement event. The energy contracts shall be  
11 for 24 hour by 7 day supply over a term that runs from the first  
12 delivery year through December 31, 2017. For a utility that  
13 serves over 2 million customers, the energy contracts shall be  
14 multi-year with pricing escalating at 2.5% per annum. The  
15 energy contracts may be designed as financial swaps or may  
16 require physical delivery.

17 Within 30 days of October 26, 2011 (the effective date of  
18 Public Act 97-616), each such utility shall submit to the  
19 Agency updated load forecasts for the period June 1, 2013  
20 through December 31, 2017. The megawatt volume of the contracts  
21 shall be based on the updated load forecasts of the minimum  
22 monthly on-peak or off-peak average load requirements shown in  
23 the forecasts, taking into account any existing energy  
24 contracts in effect as well as the expected migration of the  
25 utility's customers to alternative retail electric suppliers.  
26 The renewable energy credit volume shall be based on the number

1 of credits that would satisfy the requirements of subsection  
2 (c) of Section 1-75 of the Illinois Power Agency Act, subject  
3 to the rate impact caps and other provisions of subsection (c)  
4 of Section 1-75 of the Illinois Power Agency Act. The  
5 evaluation of contract bids in the competitive procurement  
6 events for energy and for renewable energy credits shall  
7 incorporate price benchmarks set collaboratively by the  
8 Agency, the procurement administrator, the staff of the  
9 Commission, and the procurement monitor. If the contracts are  
10 swap contracts, then they shall be executed as transactions  
11 under a negotiated master agreement based on the form of master  
12 agreement for financial swap contracts sponsored by the  
13 International Swaps and Derivatives Association, Inc. Costs  
14 incurred pursuant to a contract authorized by this subsection  
15 (k-5) shall be deemed prudently incurred and reasonable in  
16 amount and the electric utility shall be entitled to full cost  
17 recovery pursuant to the tariffs filed with the Commission.

18 The cost of administering the procurement event described  
19 in this subsection (k-5) shall be paid by the winning supplier  
20 or suppliers to the procurement administrator through a  
21 supplier fee. In the event that there is no winning supplier  
22 for a particular utility, such utility will pay the procurement  
23 administrator for the costs associated with the procurement  
24 event, and those costs shall not be a recoverable expense.  
25 Nothing in this subsection (k-5) is intended to alter the  
26 recovery of costs for any other procurement event.

1           (1) An electric utility shall recover its costs incurred  
2 under this Section, including, but not limited to, the costs of  
3 procuring power and energy demand-response resources under  
4 this Section. The utility shall file with the initial  
5 procurement plan its proposed tariffs through which its costs  
6 of procuring power that are incurred pursuant to a  
7 Commission-approved procurement plan and those other costs  
8 identified in this subsection (1), will be recovered. The  
9 tariffs shall include a formula rate or charge designed to pass  
10 through both the costs incurred by the utility in procuring a  
11 supply of electric power and energy for the applicable customer  
12 classes with no mark-up or return on the price paid by the  
13 utility for that supply, plus any just and reasonable costs  
14 that the utility incurs in arranging and providing for the  
15 supply of electric power and energy. The formula rate or charge  
16 shall also contain provisions that ensure that its application  
17 does not result in over or under recovery due to changes in  
18 customer usage and demand patterns, and that provide for the  
19 correction, on at least an annual basis, of any accounting  
20 errors that may occur. A utility shall recover through the  
21 tariff all reasonable costs incurred to implement or comply  
22 with any procurement plan that is developed and put into effect  
23 pursuant to Section 1-75 of the Illinois Power Agency Act and  
24 this Section, including any fees assessed by the Illinois Power  
25 Agency, costs associated with load balancing, and contingency  
26 plan costs. The electric utility shall also recover its full

1 costs of procuring electric supply for which it contracted  
2 before the effective date of this Section in conjunction with  
3 the provision of full requirements service under fixed-price  
4 bundled service tariffs subsequent to December 31, 2006. All  
5 such costs shall be deemed to have been prudently incurred. The  
6 pass-through tariffs that are filed and approved pursuant to  
7 this Section shall not be subject to review under, or in any  
8 way limited by, Section 16-111(i) of this Act. All of the costs  
9 incurred by the electric utility associated with the purchase  
10 of zero emission credits in accordance with subsection (d-5) of  
11 Section 1-75 of the Illinois Power Agency Act and, beginning  
12 June 1, 2018, all of the costs incurred by the electric utility  
13 associated with the purchase of renewable energy resources in  
14 accordance with subsection (c) of Section 1-75 of the Illinois  
15 Power Agency Act, shall be recovered through the electric  
16 utility's tariffed charges applicable to all of the retail  
17 customers in its service territory, as specified in subsection  
18 (k) of Section 16-108 of this Act, and shall not be recovered  
19 through the electric utility's tariffed charges for electric  
20 power and energy supply to its eligible retail customers.

21 (m) The Commission has the authority to adopt rules to  
22 carry out the provisions of this Section. For the public  
23 interest, safety, and welfare, the Commission also has  
24 authority to adopt rules to carry out the provisions of this  
25 Section on an emergency basis immediately following the  
26 effective date of this amendatory Act.

1           (n) Notwithstanding any other provision of this Act, any  
2 affiliated electric utilities that submit a single procurement  
3 plan covering their combined needs may procure for those  
4 combined needs in conjunction with that plan, and may enter  
5 jointly into power supply contracts, purchases, and other  
6 procurement arrangements, and allocate capacity and energy and  
7 cost responsibility therefor among themselves in proportion to  
8 their requirements.

9           (o) On or before June 1 of each year, the Commission shall  
10 hold an informal hearing for the purpose of receiving comments  
11 on the prior year's procurement process and any recommendations  
12 for change.

13           (p) An electric utility subject to this Section may propose  
14 to invest, lease, own, or operate an electric generation  
15 facility as part of its procurement plan, provided the utility  
16 demonstrates that such facility is the least-cost option to  
17 provide electric service to those ~~eligible~~ retail customers  
18 included in the plan's electric supply service requirements. If  
19 the facility is shown to be the least-cost option and is  
20 included in a procurement plan prepared in accordance with  
21 Section 1-75 of the Illinois Power Agency Act and this Section,  
22 then the electric utility shall make a filing pursuant to  
23 Section 8-406 of this Act, and may request of the Commission  
24 any statutory relief required thereunder. If the Commission  
25 grants all of the necessary approvals for the proposed  
26 facility, such supply shall thereafter be considered as a

1 pre-existing contract under subsection (b) of this Section. The  
2 Commission shall in any order approving a proposal under this  
3 subsection specify how the utility will recover the prudently  
4 incurred costs of investing in, leasing, owning, or operating  
5 such generation facility through just and reasonable rates  
6 charged to those eligible retail customers included in the  
7 plan's electric supply service requirements. Cost recovery for  
8 facilities included in the utility's procurement plan pursuant  
9 to this subsection shall not be subject to review under or in  
10 any way limited by the provisions of Section 16-111(i) of this  
11 Act. Nothing in this Section is intended to prohibit a utility  
12 from filing for a fuel adjustment clause as is otherwise  
13 permitted under Section 9-220 of this Act.

14 (Source: P.A. 97-325, eff. 8-12-11; 97-616, eff. 10-26-11;  
15 97-813, eff. 7-13-12.)

16 (220 ILCS 5/16-111.5B)

17 Sec. 16-111.5B. Provisions relating to energy efficiency  
18 procurement.

19 (a) Procurement ~~Beginning in 2012,~~ procurement plans  
20 prepared and filed pursuant to Section 16-111.5 of this Act  
21 during the years 2012 through 2015 shall be subject to the  
22 following additional requirements:

23 (1) The analysis included pursuant to paragraph (2) of  
24 subsection (b) of Section 16-111.5 shall also include the  
25 impact of energy efficiency building codes or appliance

1 standards, both current and projected.

2 (2) The procurement plan components described in  
3 subsection (b) of Section 16-111.5 shall also include an  
4 assessment of opportunities to expand the programs  
5 promoting energy efficiency measures that have been  
6 offered under plans approved pursuant to Section 8-103 of  
7 this Act or to implement additional cost-effective energy  
8 efficiency programs or measures.

9 (3) In addition to the information provided pursuant to  
10 paragraph (1) of subsection (d) of Section 16-111.5 of this  
11 Act, each Illinois utility procuring power pursuant to that  
12 Section shall annually provide to the Illinois Power Agency  
13 by July 15 of each year, or such other date as may be  
14 required by the Commission or Agency, an assessment of  
15 cost-effective energy efficiency programs or measures that  
16 could be included in the procurement plan. The assessment  
17 shall include the following:

18 (A) A comprehensive energy efficiency potential  
19 study for the utility's service territory that was  
20 completed within the past 3 years.

21 (B) Beginning in 2014, the most recent analysis  
22 submitted pursuant to Section 8-103A of this Act and  
23 approved by the Commission under subsection (f) of  
24 Section 8-103 of this Act.

25 (C) Identification of new or expanded  
26 cost-effective energy efficiency programs or measures

1           that are incremental to those included in energy  
2           efficiency and demand-response plans approved by the  
3           Commission pursuant to Section 8-103 of this Act and  
4           that would be offered to all retail customers whose  
5           electric service has not been declared competitive  
6           under Section 16-113 of this Act and who are eligible  
7           to purchase power and energy from the utility under  
8           fixed-price bundled service tariffs, regardless of  
9           whether such customers actually do purchase such power  
10          and energy from the utility.

11           (D) Analysis showing that the new or expanded  
12          cost-effective energy efficiency programs or measures  
13          would lead to a reduction in the overall cost of  
14          electric service.

15           (E) Analysis of how the cost of procuring  
16          additional cost-effective energy efficiency measures  
17          compares over the life of the measures to the  
18          prevailing cost of comparable supply.

19           (F) An energy savings goal, expressed in  
20          megawatt-hours, for the year in which the measures will  
21          be implemented.

22           (G) For each expanded or new program, the estimated  
23          amount that the program may reduce the agency's need to  
24          procure supply.

25           In preparing such assessments, a utility shall conduct  
26          an annual solicitation process for purposes of requesting

1 proposals from third-party vendors, the results of which  
2 shall be provided to the Agency as part of the assessment,  
3 including documentation of all bids received. The utility  
4 shall develop requests for proposals consistent with the  
5 manner in which it develops requests for proposals under  
6 plans approved pursuant to Section 8-103 of this Act, which  
7 considers input from the Agency and interested  
8 stakeholders.

9 (4) The Illinois Power Agency shall include in the  
10 procurement plan prepared pursuant to paragraph (2) of  
11 subsection (d) of Section 16-111.5 of this Act energy  
12 efficiency programs and measures it determines are  
13 cost-effective and the associated annual energy savings  
14 goal included in the annual solicitation process and  
15 assessment submitted pursuant to paragraph (3) of this  
16 subsection (a).

17 (5) Pursuant to paragraph (4) of subsection (d) of  
18 Section 16-111.5 of this Act, the Commission shall also  
19 approve the energy efficiency programs and measures  
20 included in the procurement plan, including the annual  
21 energy savings goal, if the Commission determines they  
22 fully capture the potential for all achievable  
23 cost-effective savings, to the extent practicable, and  
24 otherwise satisfy the requirements of Section 8-103 of this  
25 Act.

26 In the event the Commission approves the procurement of

1 additional energy efficiency, it shall reduce the amount of  
2 power to be procured under the procurement plan to reflect  
3 the additional energy efficiency and shall direct the  
4 utility to undertake the procurement of such energy  
5 efficiency, which shall not be subject to the requirements  
6 of subsection (e) of Section 16-111.5 of this Act. The  
7 utility shall consider input from the Agency and interested  
8 stakeholders on the procurement and administration  
9 process. The requirements set forth in paragraphs (1)  
10 through (5) of this subsection (a) shall terminate after  
11 the filing of the procurement plan in 2015, and no energy  
12 efficiency shall be procured by the Agency thereafter.  
13 Energy efficiency programs approved previously pursuant to  
14 this Section shall terminate no later than December 31,  
15 2017.

16 (6) An electric utility shall recover its costs  
17 incurred under this Section related to the implementation  
18 of energy efficiency programs and measures approved by the  
19 Commission in its order approving the procurement plan  
20 under Section 16-111.5 of this Act, including, but not  
21 limited to, all costs associated with complying with this  
22 Section and all start-up and administrative costs and the  
23 costs for any evaluation, measurement, and verification of  
24 the measures, from all retail customers whose electric  
25 service has not been declared competitive under Section  
26 16-113 of this Act and who are eligible to purchase power

1 and energy from the utility under fixed-price bundled  
2 service tariffs, regardless of whether such customers  
3 actually do purchase such power and energy from the utility  
4 through the automatic adjustment clause tariff established  
5 pursuant to Section 8-103 of this Act, provided, however,  
6 that the limitations described in subsection (d) of that  
7 Section shall not apply to the costs incurred pursuant to  
8 this Section or Section 16-111.7 of this Act.

9 (b) For purposes of this Section, the term "energy  
10 efficiency" shall have the meaning set forth in Section 1-10 of  
11 the Illinois Power Agency Act, and the term "cost-effective"  
12 shall have the meaning set forth in subsection (a) of Section  
13 8-103 of this Act.

14 (c) The changes to this Section made by this amendatory Act  
15 of the 99th General Assembly shall not interfere with existing  
16 contracts executed pursuant to a Commission order entered under  
17 this Section.

18 (Source: P.A. 97-616, eff. 10-26-11; 97-824, eff. 7-18-12.)

19 (220 ILCS 5/16-111.7)

20 Sec. 16-111.7. On-bill financing program; electric  
21 utilities.

22 (a) The Illinois General Assembly finds that Illinois homes  
23 and businesses have the potential to save energy through  
24 conservation and cost-effective energy efficiency measures.  
25 Programs created pursuant to this Section will allow utility

1 customers to purchase cost-effective energy efficiency  
2 measures, including measures set forth in a  
3 Commission-approved energy efficiency and demand-response plan  
4 under Section 8-103 or 8-103B of this Act, with no required  
5 initial upfront payment, and to pay the cost of those products  
6 and services over time on their utility bill.

7 (b) Notwithstanding any other provision of this Act, an  
8 electric utility serving more than 100,000 customers on January  
9 1, 2009 shall offer a Commission-approved on-bill financing  
10 program ("program") that allows its eligible retail customers,  
11 as that term is defined in Section 16-111.5 of this Act, who  
12 own a residential single family home, duplex, or other  
13 residential building with 4 or less units, or condominium at  
14 which the electric service is being provided (i) to borrow  
15 funds from a third party lender in order to purchase electric  
16 energy efficiency measures approved under the program for  
17 installation in such home or condominium without any required  
18 upfront payment and (ii) to pay back such funds over time  
19 through the electric utility's bill. Based upon the process  
20 described in subsection (b-5) of this Section, small commercial  
21 customers who own the premises at which electric service is  
22 being provided may be included in such program. After receiving  
23 a request from an electric utility for approval of a proposed  
24 program and tariffs pursuant to this Section, the Commission  
25 shall render its decision within 120 days. If no decision is  
26 rendered within 120 days, then the request shall be deemed to

1 be approved.

2 Beginning no later than December 31, 2013, an electric  
3 utility subject to this subsection (b) shall also offer its  
4 program to eligible retail customers that own multifamily  
5 residential or mixed-use buildings with no more than 50  
6 residential units, provided, however, that such customers must  
7 either be a residential customer or small commercial customer  
8 and may not use the program in such a way that repayment of the  
9 cost of energy efficiency measures is made through tenants'  
10 utility bills. An electric utility may impose a per site loan  
11 limit not to exceed \$150,000. The program, and loans issued  
12 thereunder, shall only be offered to customers of the utility  
13 that meet the requirements of this Section and that also have  
14 an electric service account at the premises where the energy  
15 efficiency measures being financed shall be installed.  
16 Beginning no later than 2 years after the effective date of  
17 this amendatory Act of the 99th General Assembly, the 50  
18 residential unit limitation described in this paragraph shall  
19 no longer apply, and the utility shall replace the per site  
20 loan limit of \$150,000 with a loan limit that correlates to a  
21 maximum monthly payment that does not exceed 50% of the  
22 customer's average utility bill over the prior 12-month period.

23 Beginning no later than 2 years after the effective date of  
24 this amendatory Act of the 99th General Assembly, an electric  
25 utility subject to this subsection (b) shall also offer its  
26 program to eligible retail customers that are Unit Owners'

1 Associations, as defined in subsection (o) of Section 2 of the  
2 Condominium Property Act, or Master Associations, as defined in  
3 subsection (u) of the Condominium Property Act. However, such  
4 customers must either be residential customers or small  
5 commercial customers and may not use the program in such a way  
6 that repayment of the cost of energy efficiency measures is  
7 made through unit owners' utility bills. The program and loans  
8 issued under the program shall only be offered to customers of  
9 the utility that meet the requirements of this Section and that  
10 also have an electric service account at the premises where the  
11 energy efficiency measures being financed shall be installed.

12 For purposes of this Section, "small commercial customer"  
13 means, for an electric utility serving more than 3,000,000  
14 retail customers, those customers having peak demand of less  
15 than 100 kilowatts, and, for an electric utility serving less  
16 than 3,000,000 retail customers, those customers having peak  
17 demand of less than 150 kilowatts; provided, however, that in  
18 the event the Commission, after the effective date of this  
19 amendatory Act of the 98th General Assembly, approves changes  
20 to a utility's tariffs that reflects new or revised demand  
21 criteria for the utility's customer rate classifications, then  
22 the utility may file a petition with the Commission to revise  
23 the applicable definition of a small commercial customer to  
24 reflect the new or revised demand criteria for the purposes of  
25 this Section. After notice and hearing, the Commission shall  
26 enter an order approving, or approving with modification, the

1 revised definition within 60 days after the utility files the  
2 petition.

3 (b-5) Within 30 days after the effective date of this  
4 amendatory Act of the 96th General Assembly, the Commission  
5 shall convene a workshop process during which interested  
6 participants may discuss issues related to the program,  
7 including program design, eligible electric energy efficiency  
8 measures, vendor qualifications, and a methodology for  
9 ensuring ongoing compliance with such qualifications,  
10 financing, sample documents such as request for proposals,  
11 contracts and agreements, dispute resolution, pre-installment  
12 and post-installment verification, and evaluation. The  
13 workshop process shall be completed within 150 days after the  
14 effective date of this amendatory Act of the 96th General  
15 Assembly.

16 (c) Not later than 60 days following completion of the  
17 workshop process described in subsection (b-5) of this Section,  
18 each electric utility subject to subsection (b) of this Section  
19 shall submit a proposed program to the Commission that contains  
20 the following components:

21 (1) A list of recommended electric energy efficiency  
22 measures that will be eligible for on-bill financing. An  
23 eligible electric energy efficiency measure ("measure")  
24 shall be a product or service for which one or more of the  
25 following is true:

26 (A) (blank);

1 (B) the projected electricity savings (determined  
2 by rates in effect at the time of purchase) are  
3 sufficient to cover the costs of implementing the  
4 measures, including finance charges and any program  
5 fees not recovered pursuant to subsection (f) of this  
6 Section; or

7 (C) the product or service is included in a  
8 Commission-approved energy efficiency and  
9 demand-response plan under Section 8-103 or 8-103B of  
10 this Act.

11 (1.5) Beginning no later than 2 years after the  
12 effective date of this amendatory Act of the 99th General  
13 Assembly, an eligible electric energy efficiency measure  
14 (measure) shall be a product or service that qualifies  
15 under subparagraph (B) or (C) of paragraph (1) of this  
16 subsection (c) or for which one or more of the following is  
17 true:

18 (A) a building energy assessment, performed by an  
19 energy auditor who is certified by the Building  
20 Performance Institute or who holds a similar  
21 certification, has recommended the product or service  
22 as likely to be cost effective over the course of its  
23 installed life for the building in which the measure is  
24 to be installed; or

25 (B) the product or service is necessary to safely  
26 or correctly install to code or industry standard an

1           efficiency measure, including, but not limited to,  
2           installation work; changes needed to plumbing or  
3           electrical connections; upgrades to wiring or  
4           fixtures; removal of hazardous materials; correction  
5           of leaks; changes to thermostats, controls, or similar  
6           devices; and changes to venting or exhaust  
7           necessitated by the measure. However, the costs of the  
8           product or service described in this subparagraph (B)  
9           shall not exceed 25% of the total cost of installing  
10           the measure.

11           (2) The electric utility shall issue a request for  
12 proposals ("RFP") to lenders for purposes of providing  
13 financing to participants to pay for approved measures. The  
14 RFP criteria shall include, but not be limited to, the  
15 interest rate, origination fees, and credit terms. The  
16 utility shall select the winning bidders based on its  
17 evaluation of these criteria, with a preference for those  
18 bids containing the rates, fees, and terms most favorable  
19 to participants;

20           (3) The utility shall work with the lenders selected  
21 pursuant to the RFP process, and with vendors, to establish  
22 the terms and processes pursuant to which a participant can  
23 purchase eligible electric energy efficiency measures  
24 using the financing obtained from the lender. The vendor  
25 shall explain and offer the approved financing packaging to  
26 those customers identified in subsection (b) of this

1 Section and shall assist customers in applying for  
2 financing. As part of the process, vendors shall also  
3 provide to participants information about any other  
4 incentives that may be available for the measures.

5 (4) The lender shall conduct credit checks or undertake  
6 other appropriate measures to limit credit risk, and shall  
7 review and approve or deny financing applications  
8 submitted by customers identified in subsection (b) of this  
9 Section. Following the lender's approval of financing and  
10 the participant's purchase of the measure or measures, the  
11 lender shall forward payment information to the electric  
12 utility, and the utility shall add as a separate line item  
13 on the participant's utility bill a charge showing the  
14 amount due under the program each month.

15 (5) A loan issued to a participant pursuant to the  
16 program shall be the sole responsibility of the  
17 participant, and any dispute that may arise concerning the  
18 loan's terms, conditions, or charges shall be resolved  
19 between the participant and lender. Upon transfer of the  
20 property title for the premises at which the participant  
21 receives electric service from the utility or the  
22 participant's request to terminate service at such  
23 premises, the participant shall pay in full its electric  
24 utility bill, including all amounts due under the program,  
25 provided that this obligation may be modified as provided  
26 in subsection (g) of this Section. Amounts due under the

1 program shall be deemed amounts owed for residential and,  
2 as appropriate, small commercial electric service.

3 (6) The electric utility shall remit payment in full to  
4 the lender each month on behalf of the participant. In the  
5 event a participant defaults on payment of its electric  
6 utility bill, the electric utility shall continue to remit  
7 all payments due under the program to the lender, and the  
8 utility shall be entitled to recover all costs related to a  
9 participant's nonpayment through the automatic adjustment  
10 clause tariff established pursuant to Section 16-111.8 of  
11 this Act. In addition, the electric utility shall retain a  
12 security interest in the measure or measures purchased  
13 under the program, and the utility retains its right to  
14 disconnect a participant that defaults on the payment of  
15 its utility bill.

16 (7) The total outstanding amount financed under the  
17 program in this subsection and subsection (c-5) of this  
18 Section shall not exceed \$2.5 million for an electric  
19 utility or electric utilities under a single holding  
20 company, provided that the electric utility or electric  
21 utilities may petition the Commission for an increase in  
22 such amount. Beginning after the effective date of this  
23 amendatory Act of the 99th General Assembly, the total  
24 maximum outstanding amount financed under the program in  
25 this subsection and subsections (c-5) and (c-10) of this  
26 Section shall increase by \$2,500,000 per year until such

1       time as the total maximum outstanding amount financed  
2       reaches \$20,000,000.

3       (c-5) Within 120 days after the effective date of this  
4       amendatory Act of the 98th General Assembly, each electric  
5       utility subject to the requirements of this Section shall  
6       submit an informational filing to the Commission that describes  
7       its plan for implementing the provisions of this amendatory Act  
8       of the 98th General Assembly on or before December 31, 2013.  
9       Such filing shall also describe how the electric utility shall  
10      coordinate its program with any gas utility or utilities that  
11      provide gas service to buildings within the electric utility's  
12      service territory so that it is practical and feasible for the  
13      owner of a multifamily building to make a single application to  
14      access loans for both gas and electric energy efficiency  
15      measures in any individual building.

16      (c-10) No later than 365 days after the effective date of  
17      this amendatory Act of the 99th General Assembly, each electric  
18      utility subject to the requirements of this Section shall  
19      submit an informational filing to the Commission that describes  
20      its plan for implementing the provisions of this amendatory Act  
21      of the 99th General Assembly that were incorporated into this  
22      Section. Such filing shall also include the criteria to be used  
23      by the program for determining if measures to be financed are  
24      eligible electric energy efficiency measures, as defined by  
25      paragraph (1.5) of subsection (c) of this Section.

26      (d) A program approved by the Commission shall also include

1 the following criteria and guidelines for such program:

2 (1) guidelines for financing of measures installed  
3 under a program, including, but not limited to, RFP  
4 criteria and limits on both individual loan amounts and the  
5 duration of the loans;

6 (2) criteria and standards for identifying and  
7 approving measures;

8 (3) qualifications of vendors that will market or  
9 install measures, as well as a methodology for ensuring  
10 ongoing compliance with such qualifications;

11 (4) sample contracts and agreements necessary to  
12 implement the measures and program; and

13 (5) the types of data and information that utilities  
14 and vendors participating in the program shall collect for  
15 purposes of preparing the reports required under  
16 subsection (g) of this Section.

17 (e) The proposed program submitted by each electric utility  
18 shall be consistent with the provisions of this Section that  
19 define operational, financial and billing arrangements between  
20 and among program participants, vendors, lenders, and the  
21 electric utility.

22 (f) An electric utility shall recover all of the prudently  
23 incurred costs of offering a program approved by the Commission  
24 pursuant to this Section, including, but not limited to, all  
25 start-up and administrative costs and the costs for program  
26 evaluation. All prudently incurred costs under this Section

1 shall be recovered from the residential and small commercial  
2 retail customer classes eligible to participate in the program  
3 through the automatic adjustment clause tariff established  
4 pursuant to Section 8-103 or 8-103B of this Act.

5 (g) An independent evaluation of a program shall be  
6 conducted after 3 years of the program's operation. The  
7 electric utility shall retain an independent evaluator who  
8 shall evaluate the effects of the measures installed under the  
9 program and the overall operation of the program, including,  
10 but not limited to, customer eligibility criteria and whether  
11 the payment obligation for permanent electric energy  
12 efficiency measures that will continue to provide benefits of  
13 energy savings should attach to the meter location. As part of  
14 the evaluation process, the evaluator shall also solicit  
15 feedback from participants and interested stakeholders. The  
16 evaluator shall issue a report to the Commission on its  
17 findings no later than 4 years after the date on which the  
18 program commenced, and the Commission shall issue a report to  
19 the Governor and General Assembly including a summary of the  
20 information described in this Section as well as its  
21 recommendations as to whether the program should be  
22 discontinued, continued with modification or modifications or  
23 continued without modification, provided that any recommended  
24 modifications shall only apply prospectively and to measures  
25 not yet installed or financed.

26 (h) An electric utility offering a Commission-approved

1 program pursuant to this Section shall not be required to  
2 comply with any other statute, order, rule, or regulation of  
3 this State that may relate to the offering of such program,  
4 provided that nothing in this Section is intended to limit the  
5 electric utility's obligation to comply with this Act and the  
6 Commission's orders, rules, and regulations, including Part  
7 280 of Title 83 of the Illinois Administrative Code.

8 (i) The source of a utility customer's electric supply  
9 shall not disqualify a customer from participation in the  
10 utility's on-bill financing program. Customers of alternative  
11 retail electric suppliers may participate in the program under  
12 the same terms and conditions applicable to the utility's  
13 supply customers.

14 (Source: P.A. 97-616, eff. 10-26-11; 98-586, eff. 8-27-13.)

15 (220 ILCS 5/16-115D)

16 Sec. 16-115D. Renewable portfolio standard for alternative  
17 retail electric suppliers and electric utilities operating  
18 outside their service territories.

19 (a) An alternative retail electric supplier shall be  
20 responsible for procuring cost-effective renewable energy  
21 resources as required under item (5) of subsection (d) of  
22 Section 16-115 of this Act as outlined herein:

23 (1) The definition of renewable energy resources  
24 contained in Section 1-10 of the Illinois Power Agency Act  
25 applies to all renewable energy resources required to be

1           procured by alternative retail electric suppliers.

2           (2) Through May 31, 2018, the ~~The~~ quantity of renewable  
3 energy resources shall be measured as a percentage of the  
4 actual amount of metered electricity (megawatt-hours)  
5 delivered by the alternative retail electric supplier to  
6 Illinois retail customers during the 12-month period June 1  
7 through May 31, commencing June 1, 2009, and the comparable  
8 12-month period in each year thereafter except as provided  
9 in item (6) of this subsection (a). Beginning with the  
10 planning year commencing June 1, 2018 and each year  
11 thereafter, the quantity of renewable energy resources  
12 shall be measured as the uncovered portion of the actual  
13 amount of metered electricity (megawatt-hours) delivered  
14 by the alternative retail electric supplier during the  
15 12-month period to Illinois retail customers whose  
16 electric service has been declared competitive pursuant to  
17 Section 16-113 of the Public Utilities Act. For purposes of  
18 this Section, "uncovered portion" means the percentage  
19 difference between 100% minus the applicable portion  
20 determined by paragraph (1) of subsection (c) of Section  
21 1-75 of the Illinois Power Agency Act.

22           (3) Through May 31, 2018, the ~~The~~ quantity of renewable  
23 energy resources shall be in amounts at least equal to the  
24 annual percentages set forth in item (1) of subsection (c)  
25 of Section 1-75 of the Illinois Power Agency Act. At least  
26 60% of the renewable energy resources procured pursuant to

1 items (1) ~~and through~~ (3) of subsection (b) of this Section  
2 shall come from wind generation and, starting June 1, 2015,  
3 at least 6% of the renewable energy resources procured  
4 pursuant to items (1) ~~and through~~ (3) of subsection (b) of  
5 this Section shall come from solar photovoltaics. If, in  
6 any given year, an alternative retail electric supplier  
7 does not purchase at least these levels of renewable energy  
8 resources, then the alternative retail electric supplier  
9 shall make alternative compliance payments, as described  
10 in subsection (d) of this Section.

11 (3.5) Beginning with the planning year commencing June  
12 1, 2018, the quantity of renewable energy resources shall  
13 be at least 14.5% and increase by 1.5% each year thereafter  
14 to at least 25% by June 1, 2025. At least 60% of the  
15 renewable energy resources procured pursuant this  
16 paragraph (3.5) shall come from wind generation.

17 (4) The quantity and source of renewable energy  
18 resources shall be independently verified through the PJM  
19 Environmental Information System Generation Attribute  
20 Tracking System (PJM-GATS) or the Midwest Renewable Energy  
21 Tracking System (M-RETS), which shall document the  
22 location of generation, resource type, month, and year of  
23 generation for all qualifying renewable energy resources  
24 that an alternative retail electric supplier uses to comply  
25 with this Section. No later than June 1, 2009, the Illinois  
26 Power Agency shall provide PJM-GATS, M-RETS, and

1 alternative retail electric suppliers with all information  
2 necessary to identify resources located in Illinois,  
3 within states that adjoin Illinois or within portions of  
4 the PJM and MISO footprint in the United States that  
5 qualify under the definition of renewable energy resources  
6 in Section 1-10 of the Illinois Power Agency Act for  
7 compliance with this Section 16-115D. Alternative retail  
8 electric suppliers shall not be subject to the requirements  
9 in item (3) of subsection (c) of Section 1-75 of the  
10 Illinois Power Agency Act.

11 (5) All renewable energy credits used to comply with  
12 this Section shall be permanently retired.

13 (6) The required procurement of renewable energy  
14 resources by an alternative retail electric supplier shall  
15 apply to all metered electricity delivered to Illinois  
16 retail customers by the alternative retail electric  
17 supplier pursuant to contracts executed or extended after  
18 March 15, 2009.

19 (b) Compliance obligations.

20 (1) Through May 31, 2018, an ~~An~~ alternative retail  
21 electric supplier shall comply with the renewable energy  
22 portfolio standards by making an alternative compliance  
23 payment, as described in subsection (d) of this Section, to  
24 cover at least one-half of the alternative retail electric  
25 supplier's compliance obligation for the period prior to  
26 May 31, 2018.

1           (2) Beginning on June 1, 2018, an alternative retail  
2           electric supplier need not make any alternative compliance  
3           payment to meet any portion of its compliance obligation,  
4           as set forth in paragraph (3.5) of subsection (a) of this  
5           Section, with respect to its metered electricity supplied  
6           to its Illinois retail customers that, on January 1, 2015,  
7           had their electric service declared competitive pursuant  
8           to Section 16-113 of this Act.

9           (3) An alternative retail electric supplier shall use  
10          ~~and~~ any one or combination of the following means to cover  
11          the remainder of the alternative retail electric  
12          supplier's compliance obligation, as set forth in  
13          paragraphs (3) and (3.5) of subsection (a) of this Section,  
14          not covered by an alternative compliance payment made under  
15          paragraphs (1) and (2) of this subsection (b):

16           (A) ~~(1)~~ Generating electricity using renewable  
17           energy resources identified pursuant to item (4) of  
18           subsection (a) of this Section.

19           (B) ~~(2)~~ Purchasing electricity generated using  
20           renewable energy resources identified pursuant to item  
21           (4) of subsection (a) of this Section through an energy  
22           contract.

23           (C) ~~(3)~~ Purchasing renewable energy credits from  
24           renewable energy resources identified pursuant to item  
25           (4) of subsection (a) of this Section.

26           (D) ~~(4)~~ Making an alternative compliance payment

1 as described in subsection (d) of this Section.

2 (c) Use of renewable energy credits.

3 (1) Renewable energy credits that are not used by an  
4 alternative retail electric supplier to comply with a  
5 renewable portfolio standard in a compliance year may be  
6 banked and carried forward up to 2 12-month compliance  
7 periods after the compliance period in which the credit was  
8 generated for the purpose of complying with a renewable  
9 portfolio standard in those 2 subsequent compliance  
10 periods. For the 2009-2010 and 2010-2011 compliance  
11 periods, an alternative retail electric supplier may use  
12 renewable credits generated after December 31, 2008 and  
13 before June 1, 2009 to comply with this Section.

14 (2) An alternative retail electric supplier is  
15 responsible for demonstrating that a renewable energy  
16 credit used to comply with a renewable portfolio standard  
17 is derived from a renewable energy resource and that the  
18 alternative retail electric supplier has not used, traded,  
19 sold, or otherwise transferred the credit.

20 (3) The same renewable energy credit may be used by an  
21 alternative retail electric supplier to comply with a  
22 federal renewable portfolio standard and a renewable  
23 portfolio standard established under this Act. An  
24 alternative retail electric supplier that uses a renewable  
25 energy credit to comply with a renewable portfolio standard  
26 imposed by any other state may not use the same credit to

1       comply with a renewable portfolio standard established  
2       under this Act.

3       (d) Alternative compliance payments.

4             (1) The Commission shall establish and post on its  
5       website, within 5 business days after entering an order  
6       approving a procurement plan pursuant to Section 1-75 of  
7       the Illinois Power Agency Act, maximum alternative  
8       compliance payment rates, expressed on a per kilowatt-hour  
9       basis, that will be applicable in the first compliance  
10      period following the plan approval. A separate maximum  
11      alternative compliance payment rate shall be established  
12      for the service territory of each electric utility that is  
13      subject to subsection (c) of Section 1-75 of the Illinois  
14      Power Agency Act. Each maximum alternative compliance  
15      payment rate shall be equal to the maximum allowable annual  
16      estimated average net increase due to the costs of the  
17      utility's purchase of renewable energy resources included  
18      in the amounts paid by eligible retail customers in  
19      connection with electric service, as described in item (2)  
20      of subsection (c) of Section 1-75 of the Illinois Power  
21      Agency Act for the compliance period, and as established in  
22      the approved procurement plan. Following each procurement  
23      event through which renewable energy resources are  
24      purchased for one or more of these utilities for the  
25      compliance period, the Commission shall establish and post  
26      on its website estimates of the alternative compliance

1 payment rates, expressed on a per kilowatt-hour basis, that  
2 shall apply for that compliance period. Posting of the  
3 estimates shall occur no later than 10 business days  
4 following the procurement event, however, the Commission  
5 shall not be required to establish and post such estimates  
6 more often than once per calendar month. By July 1 of each  
7 year, the Commission shall establish and post on its  
8 website the actual alternative compliance payment rates  
9 for the preceding compliance year. The Commission shall  
10 make available to alternative retail electric suppliers  
11 subject to this Section the average cost and quantity for  
12 the compliance year, the estimated average cost for each  
13 subsequent compliance year, and the anticipated quantity  
14 for each subsequent compliance year for the duration of  
15 such executed renewable energy contracts which will impact  
16 the alternative compliance payment. For compliance years  
17 beginning prior to June 1, 2014, each alternative  
18 compliance payment rate shall be equal to the total amount  
19 of dollars that the utility contracted to spend on  
20 renewable resources, excepting the additional incremental  
21 cost attributable to solar resources, for the compliance  
22 period divided by the forecasted load of eligible retail  
23 customers, at the customers' meters, as previously  
24 established in the Commission-approved procurement plan  
25 for that compliance year. For compliance years commencing  
26 on or after June 1, 2014, each alternative compliance

1 payment rate shall be equal to the total amount of dollars  
2 that the utility contracted to spend on all renewable  
3 resources for the compliance period divided by the  
4 forecasted load of ~~eligible~~ retail customers for which the  
5 utility is procuring renewable energy resources in a given  
6 planning year, at the customers' meters, as previously  
7 established in the Commission-approved procurement plan  
8 for that compliance year. The actual alternative  
9 compliance payment rates may not exceed the maximum  
10 alternative compliance payment rates established for the  
11 compliance period. For purposes of this subsection (d), the  
12 term "eligible retail customers" has the same meaning as  
13 found in Section 16-111.5 of this Act.

14 (2) In any given compliance year, an alternative retail  
15 electric supplier may elect to use alternative compliance  
16 payments to comply with all or a part of the applicable  
17 renewable portfolio standard. In the event that an  
18 alternative retail electric supplier elects to make  
19 alternative compliance payments to comply with all or a  
20 part of the applicable renewable portfolio standard, such  
21 payments shall be made by September 1, 2010 for the period  
22 of June 1, 2009 to May 1, 2010 and by September 1 of each  
23 year thereafter for the subsequent compliance period, in  
24 the manner and form as determined by the Commission. Any  
25 election by an alternative retail electric supplier to use  
26 alternative compliance payments is subject to review by the

1 Commission under subsection (e) of this Section.

2 (3) An alternative retail electric supplier's  
3 alternative compliance payments shall be computed  
4 separately for each electric utility's service territory  
5 within which the alternative retail electric supplier  
6 provided retail service during the compliance period,  
7 provided that the electric utility was subject to  
8 subsection (c) of Section 1-75 of the Illinois Power Agency  
9 Act. For each service territory, the alternative retail  
10 electric supplier's alternative compliance payment shall  
11 be equal to (i) the actual alternative compliance payment  
12 rate established in item (1) of this subsection (d),  
13 multiplied by (ii) the actual amount of metered electricity  
14 delivered by the alternative retail electric supplier to  
15 retail customers for which the supplier has a compliance  
16 obligation within the service territory during the  
17 compliance period, multiplied by (iii) the result of one  
18 minus the ratios of the quantity of renewable energy  
19 resources used by the alternative retail electric supplier  
20 to comply with the requirements of this Section within the  
21 service territory to the product of the percentage of  
22 renewable energy resources required under item (3) of  
23 subsection (a) of this Section and the actual amount of  
24 metered electricity delivered by the alternative retail  
25 electric supplier to retail customers for which the  
26 supplier has a compliance obligation within the service

1 territory during the compliance period.

2 (4) Through May 31, 2018, all ~~All~~ alternative  
3 compliance payments by alternative retail electric  
4 suppliers shall be deposited in the Illinois Power Agency  
5 Renewable Energy Resources Fund and used to purchase  
6 renewable energy credits, in accordance with Section 1-56  
7 of the Illinois Power Agency Act. Beginning April 1, 2012  
8 and by April 1 of each year thereafter, the Illinois Power  
9 Agency shall submit an annual report to the General  
10 Assembly, the Commission, and alternative retail electric  
11 suppliers that shall include, but not be limited to:

12 (A) the total amount of alternative compliance  
13 payments received in aggregate from alternative retail  
14 electric suppliers by planning year for all previous  
15 planning years in which the alternative compliance  
16 payment was in effect;

17 (B) the amount of those payments utilized to  
18 purchased renewable energy credits itemized by the  
19 date of each procurement in which the payments were  
20 utilized; and

21 (C) the unused and remaining balance in the Agency  
22 Renewable Energy Resources Fund attributable to those  
23 payments.

24 (4.5) Beginning with the planning year commencing June  
25 1, 2018, all alternative compliance payments by  
26 alternative retail electric suppliers shall be remitted to

1       the applicable electric utility. To facilitate this  
2       remittance, each electric utility shall file a tariff with  
3       the Commission no later than 30 days following the  
4       effective date of this amendatory Act of the 99th General  
5       Assembly, which the Commission shall approve, after notice  
6       and hearing, no later than 45 days after its filing. The  
7       Illinois Power Agency shall use such payments to increase  
8       the amount of renewable energy resources otherwise to be  
9       procured under subsection (c) of Section 1-75 of the  
10       Illinois Power Agency Act.

11           (5) The Commission, in consultation with the Illinois  
12       Power Agency, shall establish a process or proceeding to  
13       consider the impact of a federal renewable portfolio  
14       standard, if enacted, on the operation of the alternative  
15       compliance mechanism, which shall include, but not be  
16       limited to, developing, to the extent permitted by the  
17       applicable federal statute, an appropriate methodology to  
18       apportion renewable energy credits retired as a result of  
19       alternative compliance payments made in accordance with  
20       this Section. The Commission shall commence any such  
21       process or proceeding within 35 days after enactment of a  
22       federal renewable portfolio standard.

23           (e) Each alternative retail electric supplier shall, by  
24       September 1, 2010 and by September 1 of each year thereafter,  
25       prepare and submit to the Commission a report, in a format to  
26       be specified by the Commission ~~on or before December 31, 2009,~~

1 that provides information certifying:

2 (1) compliance by the alternative retail electric  
3 supplier with this Section, including copies of all  
4 PJM-GATS and M-RETS reports;

5 (2), ~~and~~ documentation relating to banking ~~and~~  
6 retiring renewable energy credits;

7 (3) the type and the amounts of renewable energy  
8 credits the alternative retail electric supplier is using  
9 to satisfy the alternative retail electric supplier's  
10 compliance obligation for the applicable compliance year;

11 (4) the states in which the facilities supplying the  
12 renewable energy credits purchased by the alternative  
13 retail electric supplier to satisfy the alternative retail  
14 electric supplier's compliance obligation for the  
15 applicable compliance year are located;

16 (5) the vintage of all renewable energy credits  
17 purchased by the alternative retail electric supplier;

18 (6) the percent, if any, of the alternative retail  
19 electric supplier's compliance obligation that it intends  
20 to meet through making an alternative compliance payment  
21 pursuant to subsection (b) of this Section; and

22 (7) and any other information that the Commission  
23 determines necessary to ensure compliance with this  
24 Section.

25 However, the information required by paragraphs (3)  
26 through (6) of this subsection (e) shall not be required to be

1 included in reports submitted on or before September 1, 2018.

2 An alternative retail electric supplier may file  
3 commercially or financially sensitive information or trade  
4 secrets with the Commission as provided under the rules of the  
5 Commission. To be filed confidentially, the information shall  
6 be accompanied by an affidavit that sets forth both the reasons  
7 for the confidentiality and a public synopsis of the  
8 information.

9 The Commission shall provide an analysis of the information  
10 provided by the alternative retail electric suppliers pursuant  
11 to this subsection (e) and a description of the manner in which  
12 alternative retail electric suppliers have met their  
13 obligations. The information in the Commission's annual report  
14 shall be presented in a way that protects the confidentiality  
15 of the information provided by the alternative retail electric  
16 suppliers. The Commission's annual report shall be posted on  
17 its website and cover the period from June 1, 2018 through May  
18 31, 2019 and each annual period thereafter.

19 (f) The Commission may initiate a contested case to review  
20 allegations that the alternative retail electric supplier has  
21 violated this Section, including an order issued or rule  
22 promulgated under this Section. In any such proceeding, the  
23 alternative retail electric supplier shall have the burden of  
24 proof. If the Commission finds, after notice and hearing, that  
25 an alternative retail electric supplier has violated this  
26 Section, then the Commission shall issue an order requiring the

1 alternative retail electric supplier to:

2 (1) immediately comply with this Section; and

3 (2) if the violation involves a failure to procure the  
4 requisite quantity of renewable energy resources or pay the  
5 applicable alternative compliance payment by the annual  
6 deadline, the Commission shall require the alternative  
7 retail electric supplier to double the applicable  
8 alternative compliance payment that would otherwise be  
9 required to bring the alternative retail electric supplier  
10 into compliance with this Section.

11 If an alternative retail electric supplier fails to comply  
12 with the renewable energy resource portfolio requirement in  
13 this Section more than once in a 5-year period, then the  
14 Commission shall revoke the alternative electric supplier's  
15 certificate of service authority. The Commission shall not  
16 accept an application for a certificate of service authority  
17 from an alternative retail electric supplier that has lost  
18 certification under this subsection (f), or any corporate  
19 affiliate thereof, for at least one year after the date of  
20 revocation.

21 (g) All of the provisions of this Section apply to electric  
22 utilities operating outside their service area except under  
23 item (2) of subsection (a) of this Section the quantity of  
24 renewable energy resources shall be measured as a percentage of  
25 the actual amount of electricity (megawatt-hours) supplied in  
26 the State outside of the utility's service territory during the

1 12-month period June 1 through May 31, commencing June 1, 2009,  
2 and the comparable 12-month period in each year thereafter  
3 except as provided in item (6) of subsection (a) of this  
4 Section.

5 If any such utility fails to procure the requisite quantity  
6 of renewable energy resources by the annual deadline, then the  
7 Commission shall require the utility to double the alternative  
8 compliance payment that would otherwise be required to bring  
9 the utility into compliance with this Section.

10 If any such utility fails to comply with the renewable  
11 energy resource portfolio requirement in this Section more than  
12 once in a 5-year period, then the Commission shall order the  
13 utility to cease all sales outside of the utility's service  
14 territory for a period of at least one year.

15 (h) The provisions of this Section and the provisions of  
16 subsection (d) of Section 16-115 of this Act relating to  
17 procurement of renewable energy resources shall not apply to an  
18 alternative retail electric supplier that operates a combined  
19 heat and power system in this State or that has a corporate  
20 affiliate that operates such a combined heat and power system  
21 in this State that supplies electricity primarily to or for the  
22 benefit of: (i) facilities owned by the supplier, its  
23 subsidiary, or other corporate affiliate; (ii) facilities  
24 electrically integrated with the electrical system of  
25 facilities owned by the supplier, its subsidiary, or other  
26 corporate affiliate; or (iii) facilities that are adjacent to

1 the site on which the combined heat and power system is  
2 located.

3 (i) The obligations of alternative retail electric  
4 suppliers and electric utilities operating outside their  
5 service territories to procure renewable energy resources,  
6 make alternative compliance payments, and file annual reports,  
7 and the obligations of the Commission to determine and post  
8 alternative compliance payment rates, shall terminate  
9 effective on the date that electric utilities begin procuring  
10 renewable energy resources for 100% of the actual load of  
11 retail customers whose electric service has been declared  
12 competitive pursuant to Section 16-113 of this Act, as  
13 determined by paragraph (1) of subsection (c) of Section 1-75  
14 of the Illinois Power Agency Act, provided that alternative  
15 retail electric suppliers and electric utilities operative  
16 outside their service territories shall be obligated to make  
17 all alternative compliance payments that they were obligated to  
18 pay for periods through and including that date, but were not  
19 paid as of that date. The Commission shall continue to enforce  
20 the payment of unpaid alternative compliance payments after  
21 that date in accordance with subsections (f) and (g) of this  
22 Section. All alternative compliance payments made after that  
23 date shall be remitted to the applicable electric utility and  
24 used to purchase renewable energy credits, in accordance with  
25 Section 1-75 of the Illinois Power Agency Act.

26 (Source: P.A. 96-33, eff. 7-10-09; 96-159, eff. 8-10-09;

1 96-1437, eff. 8-17-10; 97-658, eff. 1-13-12.)

2 (220 ILCS 5/16-127)

3 Sec. 16-127. Environmental disclosure.

4 (a) Effective January 1, 2013, every electric utility and  
5 alternative retail electric supplier shall provide the  
6 following information, to the maximum extent practicable, to  
7 its customers on a quarterly basis:

8 (i) the known sources of electricity supplied,  
9 broken-out by percentages, of biomass power, coal-fired  
10 power, hydro power, natural gas-fired power, nuclear  
11 power, oil-fired power, solar power, wind power and other  
12 resources, respectively;

13 (ii) a pie chart ~~pie chart~~ that graphically depicts the  
14 percentages of the sources of the electricity supplied as  
15 set forth in subparagraph (i) of this subsection; ~~and~~

16 (iii) a pie chart ~~pie chart~~ that graphically depicts  
17 the quantity of renewable energy resources procured  
18 pursuant to Section 1-75 of the Illinois Power Agency Act  
19 as a percentage of electricity supplied to serve eligible  
20 retail customers as defined in Section 16-111.5(a) of this  
21 Act; ~~and-~~

22 (iv) after May, 31, 2017, a pie chart that graphically  
23 depicts the quantity of zero emission credits from zero  
24 emission resources procured pursuant to Section 1-75 of the  
25 Illinois Power Agency Act as a percentage of the actual

1           load of retail customers within its service area.

2           (b) In addition, every electric utility and alternative  
3 retail electric supplier shall provide, to the maximum extent  
4 practicable, to its customers on a quarterly basis, a  
5 standardized chart in a format to be determined by the  
6 Commission in a rule following notice and hearings which  
7 provides the amounts of carbon dioxide, nitrogen oxides and  
8 sulfur dioxide emissions and nuclear waste attributable to the  
9 known sources of electricity supplied as set forth in  
10 subparagraph (i) of subsection (a) of this Section.

11           (c) The electric utilities and alternative retail electric  
12 suppliers may provide their customers with such other  
13 information as they believe relevant to the information  
14 required in subsections (a) and (b) of this Section. All of the  
15 information required in subsections (a) and (b) of this Section  
16 shall be made available by the electric utilities or  
17 alternative retail electric suppliers either in an electronic  
18 medium, such as on a website or by electronic mail, or through  
19 the U.S. Postal Service.

20           (d) For the purposes of subsection (a) of this Section,  
21 "biomass" means dedicated crops grown for energy production and  
22 organic wastes.

23           (e) All of the information provided in subsections (a) and  
24 (b) of this Section shall be presented to the Commission for  
25 inclusion in its World Wide Web Site.

26           (Source: P.A. 97-1092, eff. 1-1-13.)

1           Section 20. The Energy Assistance Act is amended by  
2 changing Sections 13 and 18 as follows:

3           (305 ILCS 20/13)

4           (Section scheduled to be repealed on December 31, 2018)

5           Sec. 13. Supplemental Low-Income Energy Assistance Fund.

6           (a) The Supplemental Low-Income Energy Assistance Fund is  
7 hereby created as a special fund in the State Treasury. The  
8 Supplemental Low-Income Energy Assistance Fund is authorized  
9 to receive moneys from voluntary donations from individuals,  
10 foundations, corporations, and other sources, moneys received  
11 pursuant to Section 17, and, by statutory deposit, the moneys  
12 collected pursuant to this Section. The Fund is also authorized  
13 to receive voluntary donations from individuals, foundations,  
14 corporations, and other sources, as well as contributions made  
15 in accordance with Section 507MM of the Illinois Income Tax  
16 Act. Subject to appropriation, the Department shall use moneys  
17 from the Supplemental Low-Income Energy Assistance Fund for  
18 payments to electric or gas public utilities, municipal  
19 electric or gas utilities, and electric cooperatives on behalf  
20 of their customers who are participants in the program  
21 authorized by Sections 4 and 18 of this Act, for the provision  
22 of weatherization services and for administration of the  
23 Supplemental Low-Income Energy Assistance Fund. The yearly  
24 expenditures for weatherization may not exceed 10% of the

1 amount collected during the year pursuant to this Section. The  
2 yearly administrative expenses of the Supplemental Low-Income  
3 Energy Assistance Fund may not exceed 10% of the amount  
4 collected during that year pursuant to this Section, except  
5 when unspent funds from the Supplemental Low-Income Energy  
6 Assistance Fund are reallocated from a previous year; any  
7 unspent balance of the 10% administrative allowance may be  
8 utilized for administrative expenses in the year they are  
9 reallocated.

10 (b) Notwithstanding the provisions of Section 16-111 of the  
11 Public Utilities Act but subject to subsection (k) of this  
12 Section, each public utility, electric cooperative, as defined  
13 in Section 3.4 of the Electric Supplier Act, and municipal  
14 utility, as referenced in Section 3-105 of the Public Utilities  
15 Act, that is engaged in the delivery of electricity or the  
16 distribution of natural gas within the State of Illinois shall,  
17 effective January 1, 1998, assess each of its customer accounts  
18 a monthly Energy Assistance Charge for the Supplemental  
19 Low-Income Energy Assistance Fund. The delivering public  
20 utility, municipal electric or gas utility, or electric or gas  
21 cooperative for a self-assessing purchaser remains subject to  
22 the collection of the fee imposed by this Section. The monthly  
23 charge shall be as follows:

24 (1) \$0.48 per month on each account for residential  
25 electric service; provided that beginning January 1, 2019,  
26 the monthly charge for residential electric service shall

1       change to \$0.72 for a period of 5 years; after the 5-year  
2       period, the charge shall be reduced to \$0.48 per month;

3           (2) \$0.48 per month on each account for residential gas  
4       service;

5           (3) \$4.80 per month on each account for non-residential  
6       electric service which had less than 10 megawatts of peak  
7       demand during the previous calendar year;

8           (4) \$4.80 per month on each account for non-residential  
9       gas service which had distributed to it less than 4,000,000  
10      therms of gas during the previous calendar year;

11          (5) \$360 per month on each account for non-residential  
12      electric service which had 10 megawatts or greater of peak  
13      demand during the previous calendar year; and

14          (6) \$360 per month on each account for non-residential  
15      gas service which had 4,000,000 or more therms of gas  
16      distributed to it during the previous calendar year.

17      The incremental change to such charges imposed by this  
18      amendatory Act of the 96th General Assembly shall not (i) be  
19      used for any purpose other than to directly assist customers  
20      and (ii) be applicable to utilities serving less than 100,000  
21      customers in Illinois on January 1, 2009. Moreover, the  
22      incremental change to such charges imposed by this amendatory  
23      Act of the 99th General Assembly is intended to assist  
24      low-income customers, including, but not limited to, those who  
25      may have their monthly electric bills increase because of a  
26      transition to demand-based rates under Section 9-105 of the

1 Public Utilities Act, and such incremental change shall not (i)  
2 be used for any purpose other than to fund the Percentage of  
3 Income Payment Plan program, Arrearage Reduction program, and  
4 Supplemental Arrearage Reduction program under Section 18 of  
5 this Act or (ii) be applicable to utilities serving less than  
6 100,000 customers in Illinois on January 1, 2009.

7 In addition, electric and gas utilities have committed, and  
8 shall contribute, a one-time payment of \$22 million to the  
9 Fund, within 10 days after the effective date of the tariffs  
10 established pursuant to Sections 16-111.8 and 19-145 of the  
11 Public Utilities Act to be used for the Department's cost of  
12 implementing the programs described in Section 18 of this  
13 amendatory Act of the 96th General Assembly, the Arrearage  
14 Reduction Program described in Section 18, and the programs  
15 described in Section 8-105 of the Public Utilities Act. If a  
16 utility elects not to file a rider within 90 days after the  
17 effective date of this amendatory Act of the 96th General  
18 Assembly, then the contribution from such utility shall be made  
19 no later than February 1, 2010.

20 (c) For purposes of this Section:

21 (1) "residential electric service" means electric  
22 utility service for household purposes delivered to a  
23 dwelling of 2 or fewer units which is billed under a  
24 residential rate, or electric utility service for  
25 household purposes delivered to a dwelling unit or units  
26 which is billed under a residential rate and is registered

1 by a separate meter for each dwelling unit;

2 (2) "residential gas service" means gas utility  
3 service for household purposes distributed to a dwelling of  
4 2 or fewer units which is billed under a residential rate,  
5 or gas utility service for household purposes distributed  
6 to a dwelling unit or units which is billed under a  
7 residential rate and is registered by a separate meter for  
8 each dwelling unit;

9 (3) "non-residential electric service" means electric  
10 utility service which is not residential electric service;  
11 and

12 (4) "non-residential gas service" means gas utility  
13 service which is not residential gas service.

14 (d) Within 30 days after the effective date of this  
15 amendatory Act of the 96th General Assembly, each public  
16 utility engaged in the delivery of electricity or the  
17 distribution of natural gas shall file with the Illinois  
18 Commerce Commission tariffs incorporating the Energy  
19 Assistance Charge in other charges stated in such tariffs,  
20 which shall become effective no later than the beginning of the  
21 first billing cycle following such filing.

22 (e) The Energy Assistance Charge assessed by electric and  
23 gas public utilities shall be considered a charge for public  
24 utility service.

25 (f) By the 20th day of the month following the month in  
26 which the charges imposed by the Section were collected, each

1 public utility, municipal utility, and electric cooperative  
2 shall remit to the Department of Revenue all moneys received as  
3 payment of the Energy Assistance Charge on a return prescribed  
4 and furnished by the Department of Revenue showing such  
5 information as the Department of Revenue may reasonably  
6 require; provided, however, that a utility offering an  
7 Arrearage Reduction Program or Supplemental Arrearage  
8 Reduction Program pursuant to Section 18 of this Act shall be  
9 entitled to net those amounts necessary to fund and recover the  
10 costs of such Program as authorized by that Section that is no  
11 more than the incremental change in such Energy Assistance  
12 Charge authorized by this amendatory Act of the 96th General  
13 Assembly and this amendatory Act of the 99th General Assembly.

14 If a customer makes a partial payment, a public utility,  
15 municipal utility, or electric cooperative may elect either:  
16 (i) to apply such partial payments first to amounts owed to the  
17 utility or cooperative for its services and then to payment for  
18 the Energy Assistance Charge or (ii) to apply such partial  
19 payments on a pro-rata basis between amounts owed to the  
20 utility or cooperative for its services and to payment for the  
21 Energy Assistance Charge.

22 (g) The Department of Revenue shall deposit into the  
23 Supplemental Low-Income Energy Assistance Fund all moneys  
24 remitted to it in accordance with subsection (f) of this  
25 Section; provided, however, that the amounts remitted by each  
26 utility shall be used to provide assistance to that utility's

1 customers. The utilities shall coordinate with the Department  
2 to establish an equitable and practical methodology for  
3 implementing this subsection (g) beginning with the 2010  
4 program year.

5 (h) On or before December 31, 2002, the Department shall  
6 prepare a report for the General Assembly on the expenditure of  
7 funds appropriated from the Low-Income Energy Assistance Block  
8 Grant Fund for the program authorized under Section 4 of this  
9 Act.

10 (i) The Department of Revenue may establish such rules as  
11 it deems necessary to implement this Section.

12 (j) The Department of Commerce and Economic Opportunity may  
13 establish such rules as it deems necessary to implement this  
14 Section.

15 (k) The charges imposed by this Section shall only apply to  
16 customers of municipal electric or gas utilities and electric  
17 or gas cooperatives if the municipal electric or gas utility or  
18 electric or gas cooperative makes an affirmative decision to  
19 impose the charge. If a municipal electric or gas utility or an  
20 electric cooperative makes an affirmative decision to impose  
21 the charge provided by this Section, the municipal electric or  
22 gas utility or electric cooperative shall inform the Department  
23 of Revenue in writing of such decision when it begins to impose  
24 the charge. If a municipal electric or gas utility or electric  
25 or gas cooperative does not assess this charge, the Department  
26 may not use funds from the Supplemental Low-Income Energy

1 Assistance Fund to provide benefits to its customers under the  
2 program authorized by Section 4 of this Act.

3 In its use of federal funds under this Act, the Department  
4 may not cause a disproportionate share of those federal funds  
5 to benefit customers of systems which do not assess the charge  
6 provided by this Section.

7 This Section is repealed effective December 31, 2018 unless  
8 renewed by action of the General Assembly. The General Assembly  
9 shall consider the results of the evaluations described in  
10 Section 8 in its deliberations.

11 (Source: P.A. 98-429, eff. 8-16-13; 99-457, eff. 1-1-16.)

12 (305 ILCS 20/18)

13 Sec. 18. Financial assistance; payment plans.

14 (a) The Percentage of Income Payment Plan (PIPP or PIP  
15 Plan) is hereby created as a mandatory bill payment assistance  
16 program for low-income residential customers of utilities  
17 serving more than 100,000 retail customers as of January 1,  
18 2009. The PIP Plan will:

19 (1) bring participants' gas and electric bills into the  
20 range of affordability;

21 (2) provide incentives for participants to make timely  
22 payments;

23 (3) encourage participants to reduce usage and  
24 participate in conservation and energy efficiency measures  
25 that reduce the customer's bill and payment requirements;

1 and

2 (4) identify participants whose homes are most in need  
3 of weatherization.

4 (b) For purposes of this Section:

5 (1) "LIHEAP" means the energy assistance program  
6 established under the Illinois Energy Assistance Act and  
7 the Low-Income Home Energy Assistance Act of 1981.

8 (2) "Plan participant" is an eligible participant who  
9 is also eligible for the PIPP and who will receive either a  
10 percentage of income payment credit under the PIPP criteria  
11 set forth in this Act or a benefit pursuant to Section 4 of  
12 this Act. Plan participants are a subset of eligible  
13 participants.

14 (3) "Pre-program arrears" means the amount a plan  
15 participant owes for gas or electric service at the time  
16 the participant is determined to be eligible for the PIPP  
17 or the program set forth in Section 4 of this Act.

18 (4) "Eligible participant" means any person who has  
19 applied for, been accepted and is receiving residential  
20 service from a gas or electric utility and who is also  
21 eligible for LIHEAP.

22 (c) The PIP Plan shall be administered as follows:

23 (1) The Department shall coordinate with Local  
24 Administrative Agencies (LAAs), to determine eligibility  
25 for the Illinois Low Income Home Energy Assistance Program  
26 (LIHEAP) pursuant to the Energy Assistance Act, provided

1 that eligible income shall be no more than 150% of the  
2 poverty level. Applicants will be screened to determine  
3 whether the applicant's projected payments for electric  
4 service or natural gas service over a 12-month period  
5 exceed the criteria established in this Section. To  
6 maintain the financial integrity of the program, the  
7 Department may limit eligibility to households with income  
8 below 125% of the poverty level.

9 (2) The Department shall establish the percentage of  
10 income formula to determine the amount of a monthly credit,  
11 not to exceed \$150 per month per household, not to exceed  
12 \$1,800 annually, that will be applied to PIP Plan  
13 participants' utility bills based on the portion of the  
14 bill that is the responsibility of the participant provided  
15 that the percentage shall be no more than a total of 6% of  
16 the relevant income for gas and electric utility bills  
17 combined, but in any event no less than \$10 per month,  
18 unless the household does not pay directly for heat, in  
19 which case its payment shall be 2.4% of income but in any  
20 event no less than \$5 per month. The Department may  
21 establish a minimum credit amount based on the cost of  
22 administering the program and may deny credits to otherwise  
23 eligible participants if the cost of administering the  
24 credit exceeds the actual amount of any monthly credit to a  
25 participant. If the participant takes both gas and electric  
26 service, 66.67% of the credit shall be allocated to the

1       entity that provides the participant's primary energy  
2       supply for heating. Each participant shall enter into a  
3       levelized payment plan for, as applicable, gas and electric  
4       service and such plans shall be implemented by the utility  
5       so that a participant's usage and required payments are  
6       reviewed and adjusted regularly, but no more frequently  
7       than quarterly. Nothing in this Section is intended to  
8       prohibit a customer, who is otherwise eligible for LIHEAP,  
9       from participating in the program described in Section 4 of  
10      this Act. Eligible participants who receive such a benefit  
11      shall be considered plan participants and shall be eligible  
12      to participate in the Arrearage Reduction Program  
13      described in item (5) of this subsection (c).

14           (3) The Department shall remit, through the LAAs, to  
15      the utility or participating alternative supplier that  
16      portion of the plan participant's bill that is not the  
17      responsibility of the participant. In the event that the  
18      Department fails to timely remit payment to the utility,  
19      the utility shall be entitled to recover all costs related  
20      to such nonpayment through the automatic adjustment clause  
21      tariffs established pursuant to Section 16-111.8 and  
22      Section 19-145 of the Public Utilities Act. For purposes of  
23      this item (3) of this subsection (c), payment is due on the  
24      date specified on the participant's bill. The Department,  
25      the Department of Revenue and LAAs shall adopt processes  
26      that provide for the timely payment required by this item

1 (3) of this subsection (c).

2 (4) A plan participant is responsible for all actual  
3 charges for utility service in excess of the PIPP credit.  
4 Pre-program arrears that are included in the Arrearage  
5 Reduction Program described in item (5) of this subsection  
6 (c) shall not be included in the calculation of the  
7 levelized payment plan. Emergency or crisis assistance  
8 payments shall not affect the amount of any PIPP credit to  
9 which a participant is entitled.

10 (5) Electric and gas utilities subject to this Section  
11 shall implement an Arrearage Reduction Program (ARP) for  
12 plan participants as follows: for each month that a plan  
13 participant timely pays his or her utility bill, the  
14 utility shall apply a credit to a portion of the  
15 participant's pre-program arrears, if any, equal to  
16 one-twelfth of such arrearage provided that the total  
17 amount of arrearage credits shall equal no more than \$1,000  
18 annually for each participant for gas and no more than  
19 \$1,000 annually for each participant for electricity. In  
20 the third year of the PIPP, the Department, in consultation  
21 with the Policy Advisory Council established pursuant to  
22 Section 5 of this Act, shall determine by rule an  
23 appropriate per participant total cap on such amounts, if  
24 any. Those plan participants participating in the ARP shall  
25 not be subject to the imposition of any additional late  
26 payment fees on pre-program arrears covered by the ARP. In

1 all other respects, the utility shall bill and collect the  
2 monthly bill of a plan participant pursuant to the same  
3 rules, regulations, programs and policies as applicable to  
4 residential customers generally. Participation in the  
5 Arrearage Reduction Program shall be limited to the maximum  
6 amount of funds available as set forth in subsection (f) of  
7 Section 13 of this Act. In the event any donated funds  
8 under Section 13 of this Act are specifically designated  
9 for the purpose of funding the ARP, the Department shall  
10 remit such amounts to the utilities upon verification that  
11 such funds are needed to fund the ARP. Nothing in this  
12 Section shall preclude a utility from continuing to  
13 implement, and apply credits under, an ARP in the event  
14 that the PIPP or LIHEAP is suspended due to lack of funding  
15 such that the plan participant does not receive a benefit  
16 under either the PIPP or LIHEAP.

17 (5.5) In addition to the ARP described in paragraph (5)  
18 of this subsection (c), utilities may also implement a  
19 Supplemental Arrearage Reduction Program (SARP) for  
20 eligible participants who are not able to become plan  
21 participants due to PIPP timing or funding constraints. If  
22 a utility elects to implement a SARP, it shall be  
23 administered as follows: for each month that a SARP  
24 participant timely pays his or her utility bill, the  
25 utility shall apply a credit to a portion of the  
26 participant's pre-program arrears, if any, equal to

1       one-twelfth of such arrearage, provided that the utility  
2       may limit the total amount of arrearage credits to no more  
3       than \$1,000 annually for each participant for gas and no  
4       more than \$1,000 annually for each participant for  
5       electricity. SARP participants shall not be subject to the  
6       imposition of any additional late payment fees on  
7       pre-program arrears covered by the ARP. In all other  
8       respects, the utility shall bill and collect the monthly  
9       bill of a SARP participant pursuant to the same rules,  
10       regulations, programs, and policies as applicable to  
11       residential customers generally. Participation in the SARP  
12       shall be limited to the maximum amount of funds available  
13       as set forth in subsection (f) of Section 13 of this Act.  
14       In the event any donated funds under Section 13 of this Act  
15       are specifically designated for the purpose of funding the  
16       SARP, the Department shall remit such amounts to the  
17       utilities upon verification that such funds are needed to  
18       fund the SARP.

19           (6) The Department may terminate a plan participant's  
20       eligibility for the PIP Plan upon notification by the  
21       utility that the participant's monthly utility payment is  
22       more than 45 days past due.

23           (7) The Department, in consultation with the Policy  
24       Advisory Council, may adjust the number of PIP Plan  
25       participants annually, if necessary, to match the  
26       availability of funds ~~from LIHEAP.~~ Any plan participant who

1       qualifies for a PIPP credit under a utility's PIPP shall be  
2       entitled to participate in and receive a credit under such  
3       utility's ARP for so long as such utility has ARP funds  
4       available, regardless of whether the customer's  
5       participation under another utility's PIPP or ARP has been  
6       curtailed or limited because of a lack of funds.

7           (8) The Department shall fully implement the PIPP at  
8       the earliest possible date it is able to effectively  
9       administer the PIPP. Within 90 days of the effective date  
10      of this amendatory Act of the 96th General Assembly, the  
11      Department shall, in consultation with utility companies,  
12      participating alternative suppliers, LAAs and the Illinois  
13      Commerce Commission (Commission), issue a detailed  
14      implementation plan which shall include detailed testing  
15      protocols and analysis of the capacity for implementation  
16      by the LAAs and utilities. Such consultation process also  
17      shall address how to implement the PIPP in the most  
18      cost-effective and timely manner, and shall identify  
19      opportunities for relying on the expertise of utilities,  
20      LAAs and the Commission. Following the implementation of  
21      the testing protocols, the Department shall issue a written  
22      report on the feasibility of full or gradual  
23      implementation. The PIPP shall be fully implemented by  
24      September 1, 2011, but may be phased in prior to that date.

25           (9) As part of the screening process established under  
26      item (1) of this subsection (c), the Department and LAAs

1 shall assess whether any energy efficiency or demand  
2 response measures are available to the plan participant at  
3 no cost, and if so, the participant shall enroll in any  
4 such program for which he or she is eligible. The LAAs  
5 shall assist the participant in the applicable enrollment  
6 or application process.

7 (10) Each alternative retail electric and gas supplier  
8 serving residential customers shall elect whether to  
9 participate in the PIPP or ARP described in this Section.  
10 Any such supplier electing to participate in the PIPP shall  
11 provide to the Department such information as the  
12 Department may require, including, without limitation,  
13 information sufficient for the Department to determine the  
14 proportionate allocation of credits between the  
15 alternative supplier and the utility. If a utility in whose  
16 service territory an alternative supplier serves customers  
17 contributes money to the ARP fund which is not recovered  
18 from ratepayers, then an alternative supplier which  
19 participates in ARP in that utility's service territory  
20 shall also contribute to the ARP fund in an amount that is  
21 commensurate with the number of alternative supplier  
22 customers who elect to participate in the program.

23 (d) The Department, in consultation with the Policy  
24 Advisory Council, shall develop and implement a program to  
25 educate customers about the PIP Plan and about their rights and  
26 responsibilities under the percentage of income component. The

1 Department, in consultation with the Policy Advisory Council,  
2 shall establish a process that LAAs shall use to contact  
3 customers in jeopardy of losing eligibility due to late  
4 payments. The Department shall ensure that LAAs are adequately  
5 funded to perform all necessary educational tasks.

6 (e) The PIPP shall be administered in a manner which  
7 ensures that credits to plan participants will not be counted  
8 as income or as a resource in other means-tested assistance  
9 programs for low-income households or otherwise result in the  
10 loss of federal or State assistance dollars for low-income  
11 households.

12 (f) In order to ensure that implementation costs are  
13 minimized, the Department and utilities shall work together to  
14 identify cost-effective ways to transfer information  
15 electronically and to employ available protocols that will  
16 minimize their respective administrative costs as follows:

17 (1) The Commission may require utilities to provide  
18 such information on customer usage and billing and payment  
19 information as required by the Department to implement the  
20 PIP Plan and to provide written notices and communications  
21 to plan participants.

22 (2) Each utility and participating alternative  
23 supplier shall file annual reports with the Department and  
24 the Commission that cumulatively summarize and update  
25 program information as required by the Commission's rules.  
26 The reports shall track implementation costs and contain

1           such information as is necessary to evaluate the success of  
2           the PIPP.

3           (3) The Department and the Commission shall have the  
4           authority to promulgate rules and regulations necessary to  
5           execute and administer the provisions of this Section.

6           (g) Each utility shall be entitled to recover reasonable  
7           administrative and operational costs incurred to comply with  
8           this Section from the Supplemental Low Income Energy Assistance  
9           Fund. The utility may net such costs against monies it would  
10          otherwise remit to the Funds, and each utility shall include in  
11          the annual report required under subsection (f) of this Section  
12          an accounting for the funds collected.

13          (Source: P.A. 96-33, eff. 7-10-09.)

14          Section 97. Severability. The provisions of this Act are  
15          severable under Section 1.31 of the Statute on Statutes.

16          Section 99. Effective date. This Act takes effect upon  
17          becoming law."