

AN ACT concerning State government.

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

Article 1.

Section 1-5. The Energy Transition Act is amended by changing Section 5-40 as follows:

(20 ILCS 730/5-40)

(Section scheduled to be repealed on September 15, 2045)

Sec. 5-40. Illinois Climate Works Preapprenticeship Program.

(a) Subject to appropriation, the Department shall develop, and through Regional Administrators administer, the Illinois Climate Works Preapprenticeship Program. The goal of the Illinois Climate Works Preapprenticeship Program is to create a network of hubs throughout the State that will recruit, prescreen, and provide preapprenticeship skills training, for which participants may attend free of charge and receive a stipend, to create a qualified, diverse pipeline of workers who are prepared for careers in the construction and building trades and clean energy jobs opportunities therein. Upon completion of the Illinois Climate Works Preapprenticeship Program, the candidates will be connected to

and prepared to successfully complete an apprenticeship program.

(b) Each Climate Works Hub that receives funding from the Energy Transition Assistance Fund shall provide an annual report to the Illinois Works Review Panel by April 1 of each calendar year. The annual report shall include the following information:

(1) a description of the Climate Works Hub's recruitment, screening, and training efforts, including a description of training related to construction and building trades opportunities in clean energy jobs;

(2) the number of individuals who apply to, participate in, and complete the Climate Works Hub's program, broken down by race, gender, age, and veteran status;

(3) the number of the individuals referenced in paragraph (2) of this subsection who are initially accepted and placed into apprenticeship programs in the construction and building trades; and

(4) the number of individuals referenced in paragraph (2) of this subsection who remain in apprenticeship programs in the construction and building trades or have become journeymen one calendar year after their placement, as referenced in paragraph (3) of this subsection.

(c) Subject to appropriation, the Department shall provide funding to 3 Climate Works Hubs throughout the State,

including one to the Illinois Department of Transportation Region 1, one to the Illinois Department of Transportation Regions 2 and 3, and one to the Illinois Department of Transportation Regions 4 and 5. Climate Works Hubs shall be awarded grants in multi-year increments not to exceed 36 months. Each grant shall come with a one year initial term, with the Department renewing each year for 2 additional years unless the grantee either declines to continue or fails to meet reasonable performance measures that consider apprenticeship programs timeframes. The Department shall initially select a community-based provider in each region and shall subsequently select a community-based provider in each region every 3 years. The Department may take into account experience and performance as a previous grantee of the Climate Works Hub as part of the selection criteria for subsequent years.

(d) Each Climate Works Hub that receives funding from the Energy Transition Assistance Fund shall: ~~The Climate Works Hubs shall recruit, prescreen, and provide preapprenticeship training to equity investment eligible persons. This training shall include information related to opportunities and certifications relevant to clean energy jobs in the construction and building trades.~~

(1) recruit, prescreen, and provide preapprenticeship training to equity investment eligible persons;

(2) provide training information related to

opportunities and certifications relevant to clean energy jobs in the construction and building trades; and

(3) provide preapprentices with stipends they receive that may vary depending on the occupation the individual is training for.

(d-5) Priority shall be given to Climate Works Hubs that have an agreement with North American Building Trades Unions (NABTU) to utilize the Multi-Craft Core Curriculum or successor curriculums.

(e) Funding for the Program is subject to appropriation from the Energy Transition Assistance Fund.

(f) The Department shall adopt any rules deemed necessary to implement this Section.

(Source: P.A. 102-662, eff. 9-15-21.)

Section 1-10. The Public Utilities Act is amended by changing Sections 5-117, 8-218, 16-107.6, 16-108.5, and 16-108.30 and by adding Section 16-111.11 as follows:

(220 ILCS 5/5-117)

Sec. 5-117. Supplier diversity goals.

(a) The public policy of this State is to collaboratively work with companies that serve Illinois residents to improve their supplier diversity in a non-antagonistic manner.

(b) The Commission shall require all gas, electric, and water utilities ~~companies~~ with at least 100,000 customers

~~under its authority, as well as suppliers of wind energy, solar energy, hydroelectricity, nuclear energy, and any other supplier of energy within this State,~~ to submit an annual report by April 15, 2015 and every April 15 thereafter, in a searchable Adobe PDF format, on all procurement goals and actual spending for female-owned, minority-owned, veteran-owned, and small business enterprises in the previous calendar year. These goals shall be expressed as a percentage of the total work performed by the entity submitting the report, and the actual spending for all female-owned, minority-owned, veteran-owned, and small business enterprises shall also be expressed as a percentage of the total work performed by the entity submitting the report.

(c) Each participating company in its annual report shall include the following information:

(1) an explanation of the plan for the next year to increase participation;

(2) an explanation of the plan to increase the goals;

(3) the areas of procurement each company shall be actively seeking more participation in the next year;

(3.5) a buying plan for the specific goods and services the company intends to buy in the next 6 to 18 months, that is either (i) organized by and reported at the level of each applicable North American Industry Classification System code, (ii) provided using a method, system, or description similar to the North American

Industry Classification System, or (iii) provided using the major categories of goods and related services utilized in the company's procurement system, and including any procurement codes used by the company, to assist entrepreneurs and diverse companies to understand upcoming opportunities to work with the company, however, a utility shall not be required to include commercially-sensitive data, nonpublic procurement information, or other information that could compromise a utility's ability to negotiate the most advantageous price or terms;

(4) an outline of the plan to alert and encourage potential vendors in that area to seek business from the company;

(5) an explanation of the challenges faced in finding quality vendors and offer any suggestions for what the Commission could do to be helpful to identify those vendors;

(6) a list of the certifications the company recognizes;

(7) the point of contact for any potential vendor who wishes to do business with the company and explain the process for a vendor to enroll with the company as a minority-owned, women-owned, or veteran-owned company; and

(8) any particular success stories to encourage other companies to emulate best practices.

(d) Each annual report shall include as much State-specific data as possible. If the submitting entity does not submit State-specific data, then the company shall include any national data it does have and explain why it could not submit State-specific data and how it intends to do so in future reports, if possible.

(e) Each annual report shall include the rules, regulations, and definitions used for the procurement goals in the company's annual report.

(f) The Commission and all participating entities shall hold an annual workshop open to the public in 2015 and every year thereafter on the state of supplier diversity to collaboratively seek solutions to structural impediments to achieving stated goals, including testimony from each participating entity as well as subject matter experts and advocates. The Commission shall publish a database on its website of the point of contact for each participating entity for supplier diversity, along with a list of certifications each company recognizes from the information submitted in each annual report. The Commission shall publish each annual report on its website and shall maintain each annual report for at least 5 years.

(Source: P.A. 102-558, eff. 8-20-21; 102-662, eff. 9-15-21; 102-673, eff. 11-30-21.)

Sec. 8-218. Utility-scale pilot projects.

(a) Electric utilities serving greater than 500,000 customers but less than 3,000,000 customers may propose, plan for, construct, install, control, own, manage, or operate up to 2 pilot projects consisting of utility-scale photovoltaic energy generation facilities. A pilot project may consist of photovoltaic energy generation facilities located on one or more sites and may be installed or constructed in phases.

Energy storage facilities that are planned for, constructed, installed, controlled, owned, managed, or operated may be constructed in connection with the photovoltaic electricity generation pilot projects.

(b) Pilot projects shall be sited in equity investment eligible communities in or near the towns of Peoria and East St. Louis and must result in economic benefits for the members of the communities in which the project will be located. The amount paid per pilot project with or without energy storage facilities cannot exceed \$20,000,000. The electric utility's costs of planning for, constructing, installing, controlling, owning, managing, or operating the photovoltaic electricity generation facilities and energy storage facilities may be recovered, on a kilowatt hour basis, via an automatic adjustment clause tariff applicable to all retail customers, with the tariff to be approved by the Commission after opportunity for review, and with an annual reconciliation component; and for purposes of cost recovery, the photovoltaic



electricity production facilities may be treated as regulatory assets, using the same ratemaking treatment in paragraph (1) of subsection (h) of Section 16-107.6 of this Act, provided: (1) the Commission shall have the authority to determine the reasonableness of the costs of the facilities, and (2) any monetary value of power and energy from the facilities shall be credited against the delivery services revenue requirement.

(c) Any electric utility seeking to propose, plan for, construct, install, control, own, manage, or operate a pilot project pursuant to this Section must commit to using a diverse and equitable workforce and a diverse set of contractors, including minority-owned businesses, disadvantaged businesses, trade unions, graduates of any workforce training programs established by this amendatory Act of the 102nd General Assembly, and small businesses. An electric utility must comply with the equity commitment requirements in subsection (c-10) of Section 1-75 of the Illinois Power Agency Act. The electric utility must certify that not less than the prevailing wage will be paid to employees engaged in construction activities associated with the pilot project. The electric utility must file a project labor agreement, as defined in the Illinois Power Agency Act, with the Commission prior to constructing, installing, controlling, or owning a pilot project authorized by this Section.

(Source: P.A. 102-662, eff. 9-15-21.)

(220 ILCS 5/16-107.6)

Sec. 16-107.6. Distributed generation rebate.

(a) In this Section:

"Additive services" means the services that distributed energy resources provide to the energy system and society that are not (1) already included in the base rebates for system-wide grid services; or (2) otherwise already compensated. Additive services may reflect, but shall not be limited to, any geographic, time-based, performance-based, and other benefits of distributed energy resources, as well as the present and future technological capabilities of distributed energy resources and present and future grid needs.

"Distributed energy resource" means a wide range of technologies that are located on the customer side of the customer's electric meter, including, but not limited to, distributed generation, energy storage, electric vehicles, and demand response technologies.

"Energy storage system" means commercially available technology that is capable of absorbing energy and storing it for a period of time for use at a later time, including, but not limited to, electrochemical, thermal, and electromechanical technologies, and may be interconnected behind the customer's meter or interconnected behind its own meter.

"Smart inverter" means a device that converts direct

current into alternating current and meets the IEEE 1547-2018 equipment standards. Until devices that meet the IEEE 1547-2018 standard are available, devices that meet the UL 1741 SA standard are acceptable.

"Subscriber" has the meaning set forth in Section 1-10 of the Illinois Power Agency Act.

"Subscription" has the meaning set forth in Section 1-10 of the Illinois Power Agency Act.

"System-wide grid services" means the benefits that a distributed energy resource provides to the distribution grid for a period of no less than 25 years. System-wide grid services do not vary by location, time, or the performance characteristics of the distributed energy resource. System-wide grid services include, but are not limited to, avoided or deferred distribution capacity costs, resilience and reliability benefits, avoided or deferred distribution operation and maintenance costs, distribution voltage and power quality benefits, and line loss reductions.

"Threshold date" means December 31, 2024 or the date on which the utility's tariff or tariffs setting the new compensation values established under subsection (e) take effect, whichever is later.

(b) An electric utility that serves more than 200,000 customers in the State shall file a petition with the Commission requesting approval of the utility's tariff to provide a rebate to the owner or operator of distributed

generation, including third-party owned systems, that meets the following criteria:

(1) has a nameplate generating capacity no greater than 5,000 kilowatts and is primarily used to offset a customer's electricity load;

(2) is located on the customer's side of the billing meter and for the customer's own use;

(3) is interconnected to electric distribution facilities owned by the electric utility under rules adopted by the Commission by means of the inverter or smart inverter required by this Section, as applicable.

For purposes of this Section, "distributed generation" shall satisfy the definition of distributed renewable energy generation device set forth in Section 1-10 of the Illinois Power Agency Act to the extent such definition is consistent with the requirements of this Section.

In addition, any new photovoltaic distributed generation that is installed after June 1, 2017 (the effective date of Public Act 99-906) must be installed by a qualified person, as defined by subsection (i) of Section 1-56 of the Illinois Power Agency Act.

The tariff shall include a base rebate that compensates distributed generation for the system-wide grid services associated with distributed generation and, after the proceeding described in subsection (e) of this Section, an additional payment or payments for the additive services. The

tariff shall provide that the smart inverter associated with the distributed generation shall provide autonomous response to grid conditions through its default settings as approved by the Commission. Default settings may not be changed after the execution of the interconnection agreement except by mutual agreement between the utility and the owner or operator of the distributed generation. Nothing in this Section shall negate or supersede Institute of Electrical and Electronics Engineers equipment standards or other similar standards or requirements. The tariff shall not limit the ability of the smart inverter or other distributed energy resource to provide wholesale market products such as regulation, demand response, or other services, or limit the ability of the owner of the smart inverter or the other distributed energy resource to receive compensation for providing those wholesale market products or services.

(b-5) Within 30 days after the effective date of this amendatory Act of the 102nd General Assembly, each electric public utility with 3,000,000 or more retail customers shall file a tariff with the Commission that further compensates any retail customer that installs or has installed photovoltaic facilities paired with energy storage facilities on or adjacent to its premises for the benefits the facilities provide to the distribution grid. The tariff shall provide that, in addition to the other rebates identified in this Section, the electric utility shall rebate to such retail

customer (i) the previously incurred and future costs of installing interconnection facilities and related infrastructure to enable full participation in the PJM Interconnection, LLC or its successor organization frequency regulation market; and (ii) all wholesale demand charges incurred after the effective date of this amendatory Act of the 102nd General Assembly. The Commission shall approve, or approve with modification, the tariff within 120 days after the utility's filing.

(c) The proposed tariff authorized by subsection (b) of this Section shall include the following participation terms for rebates to be applied under this Section for distributed generation that satisfies the criteria set forth in subsection (b) of this Section:

(1) The owner or operator of distributed generation that services customers not eligible for net metering under subsection (d), (d-5), or (e) of Section 16-107.5 of this Act may apply for a rebate as provided for in this Section. Until the threshold date, the value of the rebate shall be \$250 per kilowatt of nameplate generating capacity, measured as nominal DC power output, of that customer's distributed generation. To the extent the distributed generation also has an associated energy storage, then the energy storage system shall be separately compensated with a base rebate of \$250 per kilowatt-hour of nameplate capacity. Any distributed

generation device that is compensated for storage in this subsection (1) before the threshold date shall participate in one or more programs determined through the Multi-Year Integrated Grid Planning process that are designed to meet peak reduction and flexibility. After the threshold date, the value of the base rebate and additional compensation for any additive services shall be as determined by the Commission in the proceeding described in subsection (e) of this Section, provided that the value of the base rebate for system-wide grid services shall not be lower than \$250 per kilowatt of nameplate generating capacity of distributed generation or community renewable generation project.

(2) The owner or operator of distributed generation that, before the threshold date, would have been eligible for net metering under subsection (d), (d-5), or (e) of Section 16-107.5 of this Act and that has not previously received a distributed generation rebate, may apply for a rebate as provided for in this Section. Until the threshold date, the value of the base rebate shall be \$300 per kilowatt of nameplate generating capacity, measured as nominal DC power output, of the distributed generation. The owner or operator of distributed generation that, before the threshold date, is eligible for net metering under subsection (d), (d-5), or (e) of Section 16-107.5 of this Act may apply for a base rebate for an energy storage

device that uses the same smart inverter as the distributed generation, regardless of whether the distributed generation applies for a rebate for the distributed generation device. The energy storage system shall be separately compensated at a base payment of \$300 per kilowatt-hour of nameplate capacity. Any distributed generation device that is compensated for storage in this subsection (2) before the threshold date shall participate in a peak time rebate program, hourly pricing program, or time-of-use rate program offered by the applicable electric utility. After the threshold date, the value of the base rebate and additional compensation for any additive services shall be as determined by the Commission in the proceeding described in subsection (e) of this Section, provided that, prior to December 31, 2029, the value of the base rebate for system-wide services shall not be lower than \$300 per kilowatt of nameplate generating capacity of distributed generation, after which it shall not be lower than \$250 per kilowatt of nameplate capacity.

(3) Upon approval of a rebate application submitted under this subsection (c), the retail customer shall no longer be entitled to receive any delivery service credits for the excess electricity generated by its facility and shall be subject to the provisions of subsection (n) of Section 16-107.5 of this Act unless the owner or operator



receives a rebate only for an energy storage device and not for the distributed generation device.

(4) To be eligible for a rebate described in this subsection (c), the owner or operator of the distributed generation must have a smart inverter installed and in operation on the distributed generation.

(d) The Commission shall review the proposed tariff authorized by subsection (b) of this Section and may make changes to the tariff that are consistent with this Section and with the Commission's authority under Article IX of this Act, subject to notice and hearing. Following notice and hearing, the Commission shall issue an order approving, or approving with modification, such tariff no later than 240 days after the utility files its tariff. Upon the effective date of this amendatory Act of the 102nd General Assembly, an electric utility shall file a petition with the Commission to amend and update any existing tariffs to comply with subsections (b) and (c).

(e) By no later than June 30, 2023, the Commission shall open an independent, statewide investigation into the value of, and compensation for, distributed energy resources. The Commission shall conduct the investigation, but may arrange for experts or consultants independent of the utilities and selected by the Commission to assist with the investigation. The cost of the investigation shall be shared by the utilities filing tariffs under subsection (b) of this Section but may be

recovered as an expense through normal ratemaking procedures.

(1) The Commission shall ensure that the investigation includes, at minimum, diverse sets of stakeholders; a review of best practices in calculating the value of distributed energy resource benefits; a review of the full value of the distributed energy resources and the manner in which each component of that value is or is not otherwise compensated; and assessments of how the value of distributed energy resources may evolve based on the present and future technological capabilities of distributed energy resources and based on present and future grid needs.

(2) The Commission's final order concluding this investigation shall establish an annual process and formula for the compensation of distributed generation and energy storage systems, and an initial set of inputs for that formula. The Commission's final order concluding this investigation shall establish base rebates that compensate distributed generation, community renewable generation projects and energy storage systems for the system-wide grid services that they provide. Those base rebate values shall be consistent across the state, and shall not vary by customer, customer class, customer location, or any other variable. With respect to rebates for distributed generation or community renewable generation projects, that rebate shall not be lower than \$250 per kilowatt of

nameplate generating capacity of the distributed generation or community renewable generation project. The Commission's final order concluding this proceeding shall also direct the utilities to update the formula, on an annual basis, with inputs derived from their integrated grid plans developed pursuant to Section 16-105.17. The base rebate shall be updated annually based on the annual updates to the formula inputs, but, with respect to rebates for distributed generation or community renewable generation projects, shall be no lower than \$250 per kilowatt of nameplate generating capacity of the distributed generation or community renewable generation project.

(3) The Commission shall also determine, as a part of its investigation under this subsection, whether distributed energy resources can provide any additive services. Those additive services may include services that are provided through utility-controlled responses to grid conditions. If the Commission determines that distributed energy resources can provide additive grid services, the Commission shall determine the terms and conditions for the operation and compensation of those services. That compensation shall be above and beyond the base rebate that the distributed energy generation, community renewable generation project and energy storage system receives. Compensation for additive services may

vary by location, time, performance characteristics, technology types, or other variables.

(4) The Commission shall ensure that compensation for distributed energy resources, including base rebates and any payments for additive services, shall reflect all reasonably known and measurable values of the distributed generation over its full expected useful life. Compensation for additive services shall reflect, but shall not be limited to, any geographic, time-based, performance-based, and other benefits of distributed generation, as well as the present and future technological capabilities of distributed energy resources and present and future grid needs.

(5) The Commission shall consider the electric utility's integrated grid plan developed pursuant to Section 16-105.17 of this Act to help identify the value of distributed energy resources for the purpose of calculating the compensation described in this subsection.

(6) The Commission shall determine additional compensation for distributed energy resources that creates savings and value on the distribution system by being co-located or in close proximity to electric vehicle charging infrastructure in use by medium-duty and heavy-duty vehicles, primarily serving environmental justice communities, as outlined in the utility integrated grid planning process under Section 16-105.17 of this Act.

No later than 60 days after the Commission enters its final order under this subsection (e), each utility shall file its updated tariff or tariffs in compliance with the order, including new tariffs for the recovery of costs incurred under this subsection (e) that shall provide for volumetric-based cost recovery, and the Commission shall approve, or approve with modification, the tariff or tariffs within 240 days after the utility's filing.

(f) Notwithstanding any provision of this Act to the contrary, the owner or operator of a community renewable generation project as defined in Section 1-10 of the Illinois Power Agency Act shall also be eligible to apply for the rebate described in this Section. The owner or operator of the community renewable generation project may apply for a rebate only if the owner or operator, or previous owner or operator, of the community renewable generation project has not already submitted an application, and, regardless of whether the subscriber is a residential or non-residential customer, may be allowed the amount identified in paragraph (1) of subsection (c) applicable on the date that the application is submitted.

(g) The owner of the distributed generation or community renewable generation project may apply for the rebate or rebates approved under this Section at the time of execution of an interconnection agreement with the distribution utility and shall receive the value available at that time of

execution of the interconnection agreement, provided the project reaches mechanical completion within 24 months after execution of the interconnection agreement. If the project has not reached mechanical completion within 24 months after execution, the owner may reapply for the rebate or rebates approved under this Section available at the time of application and shall receive the value available at the time of application. The utility shall issue the rebate no later than 60 days after the project is energized. In the event the application is incomplete or the utility is otherwise unable to calculate the payment based on the information provided by the owner, the utility shall issue the payment no later than 60 days after the application is complete or all requested information is received.

(h) An electric utility shall recover from its retail customers all of the costs of the rebates made under a tariff or tariffs approved under subsection (d) of this Section, including, but not limited to, the value of the rebates and all costs incurred by the utility to comply with and implement subsections (b) and (c) of this Section, but not including costs incurred by the utility to comply with and implement subsection (e) of this Section, consistent with the following provisions:

(1) The utility shall defer the full amount of its costs as a regulatory asset. The total costs deferred as a regulatory asset shall be amortized over a 15-year period.

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

When an electric utility creates a regulatory asset under the provisions of this paragraph (1) of subsection (h), the costs are recovered over a period during which customers also receive a benefit, which is in the public interest. Accordingly, it is the intent of the General Assembly that an electric utility that elects to create a regulatory asset under the provisions of this paragraph (1) shall recover all of the associated costs, including, but not limited to, its cost of capital as set forth in

this paragraph (1). After the Commission has approved the prudence and reasonableness of the costs that comprise the regulatory asset, the electric utility shall be permitted to recover all such costs, and the value and recoverability through rates of the associated regulatory asset shall not be limited, altered, impaired, or reduced. To enable the financing of the incremental capital expenditures, including regulatory assets, for electric utilities that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State, the utility's actual year-end capital structure that includes a common equity ratio, excluding goodwill, of up to and including 50% of the total capital structure shall be deemed reasonable and used to set rates.

(2) The utility, at its election, may recover all of the costs as part of a filing for a general increase in rates under Article IX of this Act, as part of an annual filing to update a performance-based formula rate under subsection (d) of Section 16-108.5 of this Act, or through an automatic adjustment clause tariff, provided that nothing in this paragraph (2) permits the double recovery of such costs from customers. If the utility elects to recover the costs it incurs under subsections (b) and (c) through an automatic adjustment clause tariff, the utility may file its proposed tariff together with the tariff it files under subsection (b) of this Section or at a later



time. The proposed tariff shall provide for an annual reconciliation, less any deferred taxes related to the reconciliation, with interest at an annual rate of return equal to the utility's weighted average cost of capital as calculated under paragraph (1) of this subsection (h), including a revenue conversion factor calculated to recover or refund all additional income taxes that may be payable or receivable as a result of that return, of the revenue requirement reflected in rates for each calendar year, beginning with the calendar year in which the utility files its automatic adjustment clause tariff under this subsection (h), with what the revenue requirement would have been had the actual cost information for the applicable calendar year been available at the filing date. The Commission shall review the proposed tariff and may make changes to the tariff that are consistent with this Section and with the Commission's authority under Article IX of this Act, subject to notice and hearing. Following notice and hearing, the Commission shall issue an order approving, or approving with modification, such tariff no later than 240 days after the utility files its tariff.

(i) An electric utility shall recover from its retail customers, on a volumetric basis, all of the costs of the rebates made under a tariff or tariffs placed into effect under subsection (e) of this Section, including, but not

limited to, the value of the rebates and all costs incurred by the utility to comply with and implement subsection (e) of this Section, consistent with the following provisions:

(1) The utility may defer a portion of its costs as a regulatory asset. The Commission shall determine the portion that may be appropriately deferred as a regulatory asset. Factors that the Commission shall consider in determining the portion of costs that shall be deferred as a regulatory asset include, but are not limited to: (i) whether and the extent to which a cost effectively deferred or avoided other distribution system operating costs or capital expenditures; (ii) the extent to which a cost provides environmental benefits; (iii) the extent to which a cost improves system reliability or resilience; (iv) the electric utility's distribution system plan developed pursuant to Section 16-105.17 of this Act; (v) the extent to which a cost advances equity principles; and (vi) such other factors as the Commission deems appropriate. The remainder of costs shall be deemed an operating expense and shall be recoverable if found prudent and reasonable by the Commission.

The total costs deferred as a regulatory asset shall be amortized over a 15-year period. The unamortized balance shall be recognized as of December 31 for a given year. The utility shall also earn a return on the total of the unamortized balance of the regulatory assets, less any

deferred taxes related to the unamortized balance, at an annual rate equal to the utility's weighted average cost of capital that includes, based on a year-end capital structure, the utility's actual cost of debt for the applicable calendar year and a cost of equity, which shall be calculated as the sum of: (I) the average for the applicable calendar year of the monthly average yields of 30-year U.S. Treasury bonds published by the Board of Governors of the Federal Reserve System in its weekly H.15 Statistical Release or successor publication; and (II) 580 basis points, including a revenue conversion factor calculated to recover or refund all additional income taxes that may be payable or receivable as a result of that return.

(2) The utility may recover all of the costs through an automatic adjustment clause tariff, on a volumetric basis. The utility may file its proposed cost-recovery tariff together with the tariff it files under subsection (e) of this Section or at a later time. The proposed tariff shall provide for an annual reconciliation, less any deferred taxes related to the reconciliation, with interest at an annual rate of return equal to the utility's weighted average cost of capital as calculated under paragraph (1) of this subsection (i), including a revenue conversion factor calculated to recover or refund all additional income taxes that may be payable or

receivable as a result of that return, of the revenue requirement reflected in rates for each calendar year, beginning with the calendar year in which the utility files its automatic adjustment clause tariff under this subsection (i), with what the revenue requirement would have been had the actual cost information for the applicable calendar year been available at the filing date. The Commission shall review the proposed tariff and may make changes to the tariff that are consistent with this Section and with the Commission's authority under Article IX of this Act, subject to notice and hearing. Following notice and hearing, the Commission shall issue an order approving, or approving with modification, such tariff no later than 240 days after the utility files its tariff.

(j) No later than 90 days after the Commission enters an order, or order on rehearing, whichever is later, approving an electric utility's proposed tariff under this Section, the electric utility shall provide notice of the availability of rebates under this Section.

(Source: P.A. 102-662, eff. 9-15-21.)

(220 ILCS 5/16-108.5)

Sec. 16-108.5. Infrastructure investment and modernization; regulatory reform.

(a) (Blank).

(b) For purposes of this Section, "participating utility" means an electric utility or a combination utility serving more than 1,000,000 customers in Illinois that voluntarily elects and commits to undertake (i) the infrastructure investment program consisting of the commitments and obligations described in this subsection (b) and (ii) the customer assistance program consisting of the commitments and obligations described in subsection (b-10) of this Section, notwithstanding any other provisions of this Act and without obtaining any approvals from the Commission or any other agency other than as set forth in this Section, regardless of whether any such approval would otherwise be required. "Combination utility" means a utility that, as of January 1, 2011, provided electric service to at least one million retail customers in Illinois and gas service to at least 500,000 retail customers in Illinois. A participating utility shall recover the expenditures made under the infrastructure investment program through the ratemaking process, including, but not limited to, the performance-based formula rate and process set forth in this Section.

During the infrastructure investment program's peak program year, a participating utility other than a combination utility shall create 2,000 full-time equivalent jobs in Illinois, and a participating utility that is a combination utility shall create 450 full-time equivalent jobs in Illinois related to the provision of electric service. These jobs shall

include direct jobs, contractor positions, and induced jobs, but shall not include any portion of a job commitment, not specifically contingent on an amendatory Act of the 97th General Assembly becoming law, between a participating utility and a labor union that existed on December 30, 2011 (the effective date of Public Act 97-646) and that has not yet been fulfilled. A portion of the full-time equivalent jobs created by each participating utility shall include incremental personnel hired subsequent to December 30, 2011 (the effective date of Public Act 97-646). For purposes of this Section, "peak program year" means the consecutive 12-month period with the highest number of full-time equivalent jobs that occurs between the beginning of investment year 2 and the end of investment year 4.

A participating utility shall meet one of the following commitments, as applicable:

(1) Beginning no later than 180 days after a participating utility other than a combination utility files a performance-based formula rate tariff pursuant to subsection (c) of this Section, or, beginning no later than January 1, 2012 if such utility files such performance-based formula rate tariff within 14 days of October 26, 2011 (the effective date of Public Act 97-616), the participating utility shall, except as provided in subsection (b-5):

(A) over a 5-year period, invest an estimated

\$1,300,000,000 in electric system upgrades, modernization projects, and training facilities, including, but not limited to:

(i) distribution infrastructure improvements totaling an estimated \$1,000,000,000, including underground residential distribution cable injection and replacement and mainline cable system refurbishment and replacement projects;

(ii) training facility construction or upgrade projects totaling an estimated \$10,000,000, provided that, at a minimum, one such facility shall be located in a municipality having a population of more than 2 million residents and one such facility shall be located in a municipality having a population of more than 150,000 residents but fewer than 170,000 residents; any such new facility located in a municipality having a population of more than 2 million residents must be designed for the purpose of obtaining, and the owner of the facility shall apply for, certification under the United States Green Building Council's Leadership in Energy Efficiency Design Green Building Rating System;

(iii) wood pole inspection, treatment, and replacement programs;

(iv) an estimated \$200,000,000 for reducing

the susceptibility of certain circuits to storm-related damage, including, but not limited to, high winds, thunderstorms, and ice storms; improvements may include, but are not limited to, overhead to underground conversion and other engineered outcomes for circuits; the participating utility shall prioritize the selection of circuits based on each circuit's historical susceptibility to storm-related damage and the ability to provide the greatest customer benefit upon completion of the improvements; to be eligible for improvement, the participating utility's ability to maintain proper tree clearances surrounding the overhead circuit must not have been impeded by third parties; and

(B) over a 10-year period, invest an estimated \$1,300,000,000 to upgrade and modernize its transmission and distribution infrastructure and in Smart Grid electric system upgrades, including, but not limited to:

- (i) additional smart meters;
- (ii) distribution automation;
- (iii) associated cyber secure data communication network; and
- (iv) substation micro-processor relay upgrades.



(2) Beginning no later than 180 days after a participating utility that is a combination utility files a performance-based formula rate tariff pursuant to subsection (c) of this Section, or, beginning no later than January 1, 2012 if such utility files such performance-based formula rate tariff within 14 days of October 26, 2011 (the effective date of Public Act 97-616), the participating utility shall, except as provided in subsection (b-5):

(A) over a 10-year period, invest an estimated \$265,000,000 in electric system upgrades, modernization projects, and training facilities, including, but not limited to:

(i) distribution infrastructure improvements totaling an estimated \$245,000,000, which may include bulk supply substations, transformers, reconductoring, and rebuilding overhead distribution and sub-transmission lines, underground residential distribution cable injection and replacement and mainline cable system refurbishment and replacement projects;

(ii) training facility construction or upgrade projects totaling an estimated \$1,000,000; any such new facility must be designed for the purpose of obtaining, and the owner of the facility shall apply for, certification under the United States

Green Building Council's Leadership in Energy Efficiency Design Green Building Rating System; and

(iii) wood pole inspection, treatment, and replacement programs; and

(B) over a 10-year period, invest an estimated \$360,000,000 to upgrade and modernize its transmission and distribution infrastructure and in Smart Grid electric system upgrades, including, but not limited to:

(i) additional smart meters;

(ii) distribution automation;

(iii) associated cyber secure data communication network; and

(iv) substation micro-processor relay upgrades.

For purposes of this Section, "Smart Grid electric system upgrades" shall have the meaning set forth in subsection (a) of Section 16-108.6 of this Act.

The investments in the infrastructure investment program described in this subsection (b) shall be incremental to the participating utility's annual capital investment program, as defined by, for purposes of this subsection (b), the participating utility's average capital spend for calendar years 2008, 2009, and 2010 as reported in the applicable Federal Energy Regulatory Commission (FERC) Form 1; provided

that where one or more utilities have merged, the average capital spend shall be determined using the aggregate of the merged utilities' capital spend reported in FERC Form 1 for the years 2008, 2009, and 2010. A participating utility may add reasonable construction ramp-up and ramp-down time to the investment periods specified in this subsection (b). For each such investment period, the ramp-up and ramp-down time shall not exceed a total of 6 months.

Within 60 days after filing a tariff under subsection (c) of this Section, a participating utility shall submit to the Commission its plan, including scope, schedule, and staffing, for satisfying its infrastructure investment program commitments pursuant to this subsection (b). The submitted plan shall include a schedule and staffing plan for the next calendar year. The plan shall also include a plan for the creation, operation, and administration of a Smart Grid test bed as described in subsection (c) of Section 16-108.8. The plan need not allocate the work equally over the respective periods, but should allocate material increments throughout such periods commensurate with the work to be undertaken. No later than April 1 of each subsequent year, the utility shall submit to the Commission a report that includes any updates to the plan, a schedule for the next calendar year, the expenditures made for the prior calendar year and cumulatively, and the number of full-time equivalent jobs created for the prior calendar year and cumulatively. If the

utility is materially deficient in satisfying a schedule or staffing plan, then the report must also include a corrective action plan to address the deficiency. The fact that the plan, implementation of the plan, or a schedule changes shall not imply the imprudence or unreasonableness of the infrastructure investment program, plan, or schedule. Further, no later than 45 days following the last day of the first, second, and third quarters of each year of the plan, a participating utility shall submit to the Commission a verified quarterly report for the prior quarter that includes (i) the total number of full-time equivalent jobs created during the prior quarter, (ii) the total number of employees as of the last day of the prior quarter, (iii) the total number of full-time equivalent hours in each job classification or job title, (iv) the total number of incremental employees and contractors in support of the investments undertaken pursuant to this subsection (b) for the prior quarter, and (v) any other information that the Commission may require by rule.

With respect to the participating utility's peak job commitment, if, after considering the utility's corrective action plan and compliance thereunder, the Commission enters an order finding, after notice and hearing, that a participating utility did not satisfy its peak job commitment described in this subsection (b) for reasons that are reasonably within its control, then the Commission shall also determine, after consideration of the evidence, including, but

not limited to, evidence submitted by the Department of Commerce and Economic Opportunity and the utility, the deficiency in the number of full-time equivalent jobs during the peak program year due to such failure. The Commission shall notify the Department of any proceeding that is initiated pursuant to this paragraph. For each full-time equivalent job deficiency during the peak program year that the Commission finds as set forth in this paragraph, the participating utility shall, within 30 days after the entry of the Commission's order, pay \$6,000 to a fund for training grants administered under Section 605-800 of the Department of Commerce and Economic Opportunity Law, which shall not be a recoverable expense.

With respect to the participating utility's investment amount commitments, if, after considering the utility's corrective action plan and compliance thereunder, the Commission enters an order finding, after notice and hearing, that a participating utility is not satisfying its investment amount commitments described in this subsection (b), then the utility shall no longer be eligible to annually update the performance-based formula rate tariff pursuant to subsection (d) of this Section. In such event, the then current rates shall remain in effect until such time as new rates are set pursuant to Article IX of this Act, subject to retroactive adjustment, with interest, to reconcile rates charged with actual costs.

If the Commission finds that a participating utility is no longer eligible to update the performance-based formula rate tariff pursuant to subsection (d) of this Section, or the performance-based formula rate is otherwise terminated, then the participating utility's voluntary commitments and obligations under this subsection (b) shall immediately terminate, except for the utility's obligation to pay an amount already owed to the fund for training grants pursuant to a Commission order.

In meeting the obligations of this subsection (b), to the extent feasible and consistent with State and federal law, the investments under the infrastructure investment program should provide employment opportunities for all segments of the population and workforce, including minority-owned and female-owned business enterprises, and shall not, consistent with State and federal law, discriminate based on race or socioeconomic status.

(b-5) Nothing in this Section shall prohibit the Commission from investigating the prudence and reasonableness of the expenditures made under the infrastructure investment program during the annual review required by subsection (d) of this Section and shall, as part of such investigation, determine whether the utility's actual costs under the program are prudent and reasonable. The fact that a participating utility invests more than the minimum amounts specified in subsection (b) of this Section or its plan shall not imply

imprudence or unreasonableness.

If the participating utility finds that it is implementing its plan for satisfying the infrastructure investment program commitments described in subsection (b) of this Section at a cost below the estimated amounts specified in subsection (b) of this Section, then the utility may file a petition with the Commission requesting that it be permitted to satisfy its commitments by spending less than the estimated amounts specified in subsection (b) of this Section. The Commission shall, after notice and hearing, enter its order approving, or approving as modified, or denying each such petition within 150 days after the filing of the petition.

In no event, absent General Assembly approval, shall the capital investment costs incurred by a participating utility other than a combination utility in satisfying its infrastructure investment program commitments described in subsection (b) of this Section exceed \$3,000,000,000 or, for a participating utility that is a combination utility, \$720,000,000. If the participating utility's updated cost estimates for satisfying its infrastructure investment program commitments described in subsection (b) of this Section exceed the limitation imposed by this subsection (b-5), then it shall submit a report to the Commission that identifies the increased costs and explains the reason or reasons for the increased costs no later than the year in which the utility estimates it will exceed the limitation. The Commission shall

review the report and shall, within 90 days after the participating utility files the report, report to the General Assembly its findings regarding the participating utility's report. If the General Assembly does not amend the limitation imposed by this subsection (b-5), then the utility may modify its plan so as not to exceed the limitation imposed by this subsection (b-5) and may propose corresponding changes to the metrics established pursuant to subparagraphs (5) through (8) of subsection (f) of this Section, and the Commission may modify the metrics and incremental savings goals established pursuant to subsection (f) of this Section accordingly.

(b-10) All participating utilities shall make contributions for an energy low-income and support program in accordance with this subsection. Beginning no later than 180 days after a participating utility files a performance-based formula rate tariff pursuant to subsection (c) of this Section, or beginning no later than January 1, 2012 if such utility files such performance-based formula rate tariff within 14 days of December 30, 2011 (the effective date of Public Act 97-646), and without obtaining any approvals from the Commission or any other agency other than as set forth in this Section, regardless of whether any such approval would otherwise be required, a participating utility other than a combination utility shall pay \$10,000,000 per year for 5 years and a participating utility that is a combination utility shall pay \$1,000,000 per year for 10 years to the energy



low-income and support program, which is intended to fund customer assistance programs with the primary purpose being avoidance of imminent disconnection. Such programs may include:

(1) a residential hardship program that may partner with community-based organizations, including senior citizen organizations, and provides grants to low-income residential customers, including low-income senior citizens, who demonstrate a hardship;

(2) a program that provides grants and other bill payment concessions to veterans with disabilities who demonstrate a hardship and members of the armed services or reserve forces of the United States or members of the Illinois National Guard who are on active duty pursuant to an executive order of the President of the United States, an act of the Congress of the United States, or an order of the Governor and who demonstrate a hardship;

(3) a budget assistance program that provides tools and education to low-income senior citizens to assist them with obtaining information regarding energy usage and effective means of managing energy costs;

(4) a non-residential special hardship program that provides grants to non-residential customers such as small businesses and non-profit organizations that demonstrate a hardship, including those providing services to senior citizen and low-income customers; and

(5) a performance-based assistance program that provides grants to encourage residential customers to make on-time payments by matching a portion of the customer's payments or providing credits towards arrearages.

The payments made by a participating utility pursuant to this subsection (b-10) shall not be a recoverable expense. A participating utility may elect to fund either new or existing customer assistance programs, including, but not limited to, those that are administered by the utility.

Programs that use funds that are provided by a participating utility to reduce utility bills may be implemented through tariffs that are filed with and reviewed by the Commission. If a utility elects to file tariffs with the Commission to implement all or a portion of the programs, those tariffs shall, regardless of the date actually filed, be deemed accepted and approved, and shall become effective on December 30, 2011 (the effective date of Public Act 97-646). The participating utilities whose customers benefit from the funds that are disbursed as contemplated in this Section shall file annual reports documenting the disbursement of those funds with the Commission. The Commission has the authority to audit disbursement of the funds to ensure they were disbursed consistently with this Section.

If the Commission finds that a participating utility is no longer eligible to update the performance-based formula rate tariff pursuant to subsection (d) of this Section, or the

performance-based formula rate is otherwise terminated, then the participating utility's voluntary commitments and obligations under this subsection (b-10) shall immediately terminate.

(c) A participating utility may elect to recover its delivery services costs through a performance-based formula rate approved by the Commission, which shall specify the cost components that form the basis of the rate charged to customers with sufficient specificity to operate in a standardized manner and be updated annually with transparent information that reflects the utility's actual costs to be recovered during the applicable rate year, which is the period beginning with the first billing day of January and extending through the last billing day of the following December. In the event the utility recovers a portion of its costs through automatic adjustment clause tariffs on October 26, 2011 (the effective date of Public Act 97-616), the utility may elect to continue to recover these costs through such tariffs, but then these costs shall not be recovered through the performance-based formula rate. In the event the participating utility, prior to December 30, 2011 (the effective date of Public Act 97-646), filed electric delivery services tariffs with the Commission pursuant to Section 9-201 of this Act that are related to the recovery of its electric delivery services costs that are still pending on December 30, 2011 (the effective date of Public Act 97-646), the participating

utility shall, at the time it files its performance-based formula rate tariff with the Commission, also file a notice of withdrawal with the Commission to withdraw the electric delivery services tariffs previously filed pursuant to Section 9-201 of this Act. Upon receipt of such notice, the Commission shall dismiss with prejudice any docket that had been initiated to investigate the electric delivery services tariffs filed pursuant to Section 9-201 of this Act, and such tariffs and the record related thereto shall not be the subject of any further hearing, investigation, or proceeding of any kind related to rates for electric delivery services.

The performance-based formula rate shall be implemented through a tariff filed with the Commission consistent with the provisions of this subsection (c) that shall be applicable to all delivery services customers. The Commission shall initiate and conduct an investigation of the tariff in a manner consistent with the provisions of this subsection (c) and the provisions of Article IX of this Act to the extent they do not conflict with this subsection (c). Except in the case where the Commission finds, after notice and hearing, that a participating utility is not satisfying its investment amount commitments under subsection (b) of this Section, the performance-based formula rate shall remain in effect at the discretion of the utility. The performance-based formula rate approved by the Commission shall do the following:

- (1) Provide for the recovery of the utility's actual

costs of delivery services that are prudently incurred and reasonable in amount consistent with Commission practice and law. The sole fact that a cost differs from that incurred in a prior calendar year or that an investment is different from that made in a prior calendar year shall not imply the imprudence or unreasonableness of that cost or investment.

(2) Reflect the utility's actual year-end capital structure for the applicable calendar year, excluding goodwill, subject to a determination of prudence and reasonableness consistent with Commission practice and law. To enable the financing of the incremental capital expenditures, including regulatory assets, for electric utilities that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State, a participating electric utility's actual year-end capital structure that includes a common equity ratio, excluding goodwill, of up to and including 50% of the total capital structure shall be deemed reasonable and used to set rates.

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

(A) the average for the applicable calendar year of the monthly average yields of 30-year U.S. Treasury bonds published by the Board of Governors of the Federal Reserve System in its weekly H.15 Statistical

Release or successor publication; and

(B) 580 basis points.

At such time as the Board of Governors of the Federal Reserve System ceases to include the monthly average yields of 30-year U.S. Treasury bonds in its weekly H.15 Statistical Release or successor publication, the monthly average yields of the U.S. Treasury bonds then having the longest duration published by the Board of Governors in its weekly H.15 Statistical Release or successor publication shall instead be used for purposes of this paragraph (3).

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

(A) recovery of incentive compensation expense that is based on the achievement of operational metrics, including metrics related to budget controls, outage duration and frequency, safety, customer service, efficiency and productivity, and environmental compliance. Incentive compensation expense that is based on net income or an affiliate's earnings per share shall not be recoverable under the performance-based formula rate;

(B) recovery of pension and other post-employment benefits expense, provided that such costs are supported by an actuarial study;

(C) recovery of severance costs, provided that if the amount is over \$3,700,000 for a participating utility that is a combination utility or \$10,000,000 for a participating utility that serves more than 3 million retail customers, then the full amount shall be amortized consistent with subparagraph (F) of this paragraph (4);

(D) investment return at a rate equal to the utility's weighted average cost of long-term debt, on the pension assets as, and in the amount, reported in Account 186 (or in such other Account or Accounts as such asset may subsequently be recorded) of the utility's most recently filed FERC Form 1, net of deferred tax benefits;

(E) recovery of the expenses related to the Commission proceeding under this subsection (c) to approve this performance-based formula rate and initial rates or to subsequent proceedings related to the formula, provided that the recovery shall be amortized over a 3-year period; recovery of expenses related to the annual Commission proceedings under subsection (d) of this Section to review the inputs to the performance-based formula rate shall be expensed and recovered through the performance-based formula rate;

(F) amortization over a 5-year period of the full

amount of each charge or credit that exceeds \$3,700,000 for a participating utility that is a combination utility or \$10,000,000 for a participating utility that serves more than 3 million retail customers in the applicable calendar year and that relates to a workforce reduction program's severance costs, changes in accounting rules, changes in law, compliance with any Commission-initiated audit, or a single storm or other similar expense, provided that any unamortized balance shall be reflected in rate base. For purposes of this subparagraph (F), changes in law includes any enactment, repeal, or amendment in a law, ordinance, rule, regulation, interpretation, permit, license, consent, or order, including those relating to taxes, accounting, or to environmental matters, or in the interpretation or application thereof by any governmental authority occurring after October 26, 2011 (the effective date of Public Act 97-616);

(G) recovery of existing regulatory assets over the periods previously authorized by the Commission;

(H) historical weather normalized billing determinants; and

(I) allocation methods for common costs.

(5) Provide that if the participating utility's earned rate of return on common equity related to the provision



of delivery services for the prior rate year (calculated using costs and capital structure approved by the Commission as provided in subparagraph (2) of this subsection (c), consistent with this Section, in accordance with Commission rules and orders, including, but not limited to, adjustments for goodwill, and after any Commission-ordered disallowances and taxes) is more than 50 basis points higher than the rate of return on common equity calculated pursuant to paragraph (3) of this subsection (c) (after adjusting for any penalties to the rate of return on common equity applied pursuant to the performance metrics provision of subsection (f) of this Section), then the participating utility shall apply a credit through the performance-based formula rate that reflects an amount equal to the value of that portion of the earned rate of return on common equity that is more than 50 basis points higher than the rate of return on common equity calculated pursuant to paragraph (3) of this subsection (c) (after adjusting for any penalties to the rate of return on common equity applied pursuant to the performance metrics provision of subsection (f) of this Section) for the prior rate year, adjusted for taxes. If the participating utility's earned rate of return on common equity related to the provision of delivery services for the prior rate year (calculated using costs and capital structure approved by the Commission as

provided in subparagraph (2) of this subsection (c), consistent with this Section, in accordance with Commission rules and orders, including, but not limited to, adjustments for goodwill, and after any Commission-ordered disallowances and taxes) is more than 50 basis points less than the return on common equity calculated pursuant to paragraph (3) of this subsection (c) (after adjusting for any penalties to the rate of return on common equity applied pursuant to the performance metrics provision of subsection (f) of this Section), then the participating utility shall apply a charge through the performance-based formula rate that reflects an amount equal to the value of that portion of the earned rate of return on common equity that is more than 50 basis points less than the rate of return on common equity calculated pursuant to paragraph (3) of this subsection (c) (after adjusting for any penalties to the rate of return on common equity applied pursuant to the performance metrics provision of subsection (f) of this Section) for the prior rate year, adjusted for taxes.

(6) Provide for an annual reconciliation, as described in subsection (d) of this Section, with interest, of the revenue requirement reflected in rates for each calendar year, beginning with the calendar year in which the utility files its performance-based formula rate tariff pursuant to subsection (c) of this Section, with what the

revenue requirement would have been had the actual cost information for the applicable calendar year been available at the filing date.

The utility shall file, together with its tariff, final data based on its most recently filed FERC Form 1, plus projected plant additions and correspondingly updated depreciation reserve and expense for the calendar year in which the tariff and data are filed, that shall populate the performance-based formula rate and set the initial delivery services rates under the formula. For purposes of this Section, "FERC Form 1" means the Annual Report of Major Electric Utilities, Licensees and Others that electric utilities are required to file with the Federal Energy Regulatory Commission under the Federal Power Act, Sections 3, 4(a), 304 and 209, modified as necessary to be consistent with 83 Ill. Admin. Code Part 415 as of May 1, 2011. Nothing in this Section is intended to allow costs that are not otherwise recoverable to be recoverable by virtue of inclusion in FERC Form 1.

After the utility files its proposed performance-based formula rate structure and protocols and initial rates, the Commission shall initiate a docket to review the filing. The Commission shall enter an order approving, or approving as modified, the performance-based formula rate, including the initial rates, as just and reasonable within 270 days after the date on which the tariff was filed, or, if the tariff is

filed within 14 days after October 26, 2011 (the effective date of Public Act 97-616), then by May 31, 2012. Such review shall be based on the same evidentiary standards, including, but not limited to, those concerning the prudence and reasonableness of the costs incurred by the utility, the Commission applies in a hearing to review a filing for a general increase in rates under Article IX of this Act. The initial rates shall take effect within 30 days after the Commission's order approving the performance-based formula rate tariff.

Until such time as the Commission approves a different rate design and cost allocation pursuant to subsection (e) of this Section, rate design and cost allocation across customer classes shall be consistent with the Commission's most recent order regarding the participating utility's request for a general increase in its delivery services rates.

Subsequent changes to the performance-based formula rate structure or protocols shall be made as set forth in Section 9-201 of this Act, but nothing in this subsection (c) is intended to limit the Commission's authority under Article IX and other provisions of this Act to initiate an investigation of a participating utility's performance-based formula rate tariff, provided that any such changes shall be consistent with paragraphs (1) through (6) of this subsection (c). Any change ordered by the Commission shall be made at the same time new rates take effect following the Commission's next order

pursuant to subsection (d) of this Section, provided that the new rates take effect no less than 30 days after the date on which the Commission issues an order adopting the change.

A participating utility that files a tariff pursuant to this subsection (c) must submit a one-time \$200,000 filing fee at the time the Chief Clerk of the Commission accepts the filing, which shall be a recoverable expense.

In the event the performance-based formula rate is terminated, the then current rates shall remain in effect until such time as new rates are set pursuant to Article IX of this Act, subject to retroactive rate adjustment, with interest, to reconcile rates charged with actual costs. At such time that the performance-based formula rate is terminated, the participating utility's voluntary commitments and obligations under subsection (b) of this Section shall immediately terminate, except for the utility's obligation to pay an amount already owed to the fund for training grants pursuant to a Commission order issued under subsection (b) of this Section.

(d) Subsequent to the Commission's issuance of an order approving the utility's performance-based formula rate structure and protocols, and initial rates under subsection (c) of this Section, the utility shall file, on or before May 1 of each year, with the Chief Clerk of the Commission its updated cost inputs to the performance-based formula rate for the applicable rate year and the corresponding new charges.

Each such filing shall conform to the following requirements and include the following information:

(1) The inputs to the performance-based formula rate for the applicable rate year shall be based on final historical data reflected in the utility's most recently filed annual FERC Form 1 plus projected plant additions and correspondingly updated depreciation reserve and expense for the calendar year in which the inputs are filed. The filing shall also include a reconciliation of the revenue requirement that was in effect for the prior rate year (as set by the cost inputs for the prior rate year) with the actual revenue requirement for the prior rate year (determined using a year-end rate base) that uses amounts reflected in the applicable FERC Form 1 that reports the actual costs for the prior rate year. Any over-collection or under-collection indicated by such reconciliation shall be reflected as a credit against, or recovered as an additional charge to, respectively, with interest calculated at a rate equal to the utility's weighted average cost of capital approved by the Commission for the prior rate year, the charges for the applicable rate year. Provided, however, that the first such reconciliation shall be for the calendar year in which the utility files its performance-based formula rate tariff pursuant to subsection (c) of this Section and shall reconcile (i) the revenue requirement or

requirements established by the rate order or orders in effect from time to time during such calendar year (weighted, as applicable) with (ii) the revenue requirement determined using a year-end rate base for that calendar year calculated pursuant to the performance-based formula rate using (A) actual costs for that year as reflected in the applicable FERC Form 1, and (B) for the first such reconciliation only, the cost of equity, which shall be calculated as the sum of 590 basis points plus the average for the applicable calendar year of the monthly average yields of 30-year U.S. Treasury bonds published by the Board of Governors of the Federal Reserve System in its weekly H.15 Statistical Release or successor publication. The first such reconciliation is not intended to provide for the recovery of costs previously excluded from rates based on a prior Commission order finding of imprudence or unreasonableness. Each reconciliation shall be certified by the participating utility in the same manner that FERC Form 1 is certified. The filing shall also include the charge or credit, if any, resulting from the calculation required by paragraph (6) of subsection (c) of this Section.

Notwithstanding anything that may be to the contrary, the intent of the reconciliation is to ultimately reconcile the revenue requirement reflected in rates for each calendar year, beginning with the calendar year in

which the utility files its performance-based formula rate tariff pursuant to subsection (c) of this Section, with what the revenue requirement determined using a year-end rate base for the applicable calendar year would have been had the actual cost information for the applicable calendar year been available at the filing date.

(2) The new charges shall take effect beginning on the first billing day of the following January billing period and remain in effect through the last billing day of the next December billing period regardless of whether the Commission enters upon a hearing pursuant to this subsection (d).

(3) The filing shall include relevant and necessary data and documentation for the applicable rate year that is consistent with the Commission's rules applicable to a filing for a general increase in rates or any rules adopted by the Commission to implement this Section. Normalization adjustments shall not be required. Notwithstanding any other provision of this Section or Act or any rule or other requirement adopted by the Commission, a participating utility that is a combination utility with more than one rate zone shall not be required to file a separate set of such data and documentation for each rate zone and may combine such data and documentation into a single set of schedules.

Within 45 days after the utility files its annual update



of cost inputs to the performance-based formula rate, the Commission shall have the authority, either upon complaint or its own initiative, but with reasonable notice, to enter upon a hearing concerning the prudence and reasonableness of the costs incurred by the utility to be recovered during the applicable rate year that are reflected in the inputs to the performance-based formula rate derived from the utility's FERC Form 1. During the course of the hearing, each objection shall be stated with particularity and evidence provided in support thereof, after which the utility shall have the opportunity to rebut the evidence. Discovery shall be allowed consistent with the Commission's Rules of Practice, which Rules shall be enforced by the Commission or the assigned administrative law judge. The Commission shall apply the same evidentiary standards, including, but not limited to, those concerning the prudence and reasonableness of the costs incurred by the utility, in the hearing as it would apply in a hearing to review a filing for a general increase in rates under Article IX of this Act. The Commission shall not, however, have the authority in a proceeding under this subsection (d) to consider or order any changes to the structure or protocols of the performance-based formula rate approved pursuant to subsection (c) of this Section. In a proceeding under this subsection (d), the Commission shall enter its order no later than the earlier of 240 days after the utility's filing of its annual update of cost inputs to the performance-based formula

rate or December 31. The Commission's determinations of the prudence and reasonableness of the costs incurred for the applicable calendar year shall be final upon entry of the Commission's order and shall not be subject to reopening, reexamination, or collateral attack in any other Commission proceeding, case, docket, order, rule or regulation, provided, however, that nothing in this subsection (d) shall prohibit a party from petitioning the Commission to rehear or appeal to the courts the order pursuant to the provisions of this Act.

In the event the Commission does not, either upon complaint or its own initiative, enter upon a hearing within 45 days after the utility files the annual update of cost inputs to its performance-based formula rate, then the costs incurred for the applicable calendar year shall be deemed prudent and reasonable, and the filed charges shall not be subject to reopening, reexamination, or collateral attack in any other proceeding, case, docket, order, rule, or regulation.

A participating utility's first filing of the updated cost inputs, and any Commission investigation of such inputs pursuant to this subsection (d) shall proceed notwithstanding the fact that the Commission's investigation under subsection (c) of this Section is still pending and notwithstanding any other law, order, rule, or Commission practice to the contrary.

(e) Nothing in subsections (c) or (d) of this Section

shall prohibit the Commission from investigating, or a participating utility from filing, revenue-neutral tariff changes related to rate design of a performance-based formula rate that has been placed into effect for the utility. Following approval of a participating utility's performance-based formula rate tariff pursuant to subsection (c) of this Section, the utility shall make a filing with the Commission within one year after the effective date of the performance-based formula rate tariff that proposes changes to the tariff to incorporate the findings of any final rate design orders of the Commission applicable to the participating utility and entered subsequent to the Commission's approval of the tariff. The Commission shall, after notice and hearing, enter its order approving, or approving with modification, the proposed changes to the performance-based formula rate tariff within 240 days after the utility's filing. Following such approval, the utility shall make a filing with the Commission during each subsequent 3-year period that either proposes revenue-neutral tariff changes or re-files the existing tariffs without change, which shall present the Commission with an opportunity to suspend the tariffs and consider revenue-neutral tariff changes related to rate design.

(f) Within 30 days after the filing of a tariff pursuant to subsection (c) of this Section, each participating utility shall develop and file with the Commission multi-year metrics

designed to achieve, ratably (i.e., in equal segments) over a 10-year period, improvement over baseline performance values as follows:

(1) Twenty percent improvement in the System Average Interruption Frequency Index, using a baseline of the average of the data from 2001 through 2010.

(2) Fifteen percent improvement in the system Customer Average Interruption Duration Index, using a baseline of the average of the data from 2001 through 2010.

(3) For a participating utility other than a combination utility, 20% improvement in the System Average Interruption Frequency Index for its Southern Region, using a baseline of the average of the data from 2001 through 2010. For purposes of this paragraph (3), Southern Region shall have the meaning set forth in the participating utility's most recent report filed pursuant to Section 16-125 of this Act.

(3.5) For a participating utility other than a combination utility, 20% improvement in the System Average Interruption Frequency Index for its Northeastern Region, using a baseline of the average of the data from 2001 through 2010. For purposes of this paragraph (3.5), Northeastern Region shall have the meaning set forth in the participating utility's most recent report filed pursuant to Section 16-125 of this Act.

(4) Seventy-five percent improvement in the total

number of customers who exceed the service reliability targets as set forth in subparagraphs (A) through (C) of paragraph (4) of subsection (b) of 83 Ill. Admin. Code Part 411.140 as of May 1, 2011, using 2010 as the baseline year.

(5) Reduction in issuance of estimated electric bills: 90% improvement for a participating utility other than a combination utility, and 56% improvement for a participating utility that is a combination utility, using a baseline of the average number of estimated bills for the years 2008 through 2010.

(6) Consumption on inactive meters: 90% improvement for a participating utility other than a combination utility, and 56% improvement for a participating utility that is a combination utility, using a baseline of the average unbilled kilowatthours for the years 2009 and 2010.

(7) Unaccounted for energy: 50% improvement for a participating utility other than a combination utility using a baseline of the non-technical line loss unaccounted for energy kilowatthours for the year 2009.

(8) Uncollectible expense: reduce uncollectible expense by at least \$30,000,000 for a participating utility other than a combination utility and by at least \$3,500,000 for a participating utility that is a combination utility, using a baseline of the average

uncollectible expense for the years 2008 through 2010.

(9) Opportunities for minority-owned and female-owned business enterprises: design a performance metric regarding the creation of opportunities for minority-owned and female-owned business enterprises consistent with State and federal law using a base performance value of the percentage of the participating utility's capital expenditures that were paid to minority-owned and female-owned business enterprises in 2010.

The definitions set forth in 83 Ill. Admin. Code Part 411.20 as of May 1, 2011 shall be used for purposes of calculating performance under paragraphs (1) through (3.5) of this subsection (f), provided, however, that the participating utility may exclude up to 9 extreme weather event days from such calculation for each year, and provided further that the participating utility shall exclude 9 extreme weather event days when calculating each year of the baseline period to the extent that there are 9 such days in a given year of the baseline period. For purposes of this Section, an extreme weather event day is a 24-hour calendar day (beginning at 12:00 a.m. and ending at 11:59 p.m.) during which any weather event (e.g., storm, tornado) caused interruptions for 10,000 or more of the participating utility's customers for 3 hours or more. If there are more than 9 extreme weather event days in a year, then the utility may choose no more than 9 extreme weather event days to exclude, provided that the same extreme

weather event days are excluded from each of the calculations performed under paragraphs (1) through (3.5) of this subsection (f).

The metrics shall include incremental performance goals for each year of the 10-year period, which shall be designed to demonstrate that the utility is on track to achieve the performance goal in each category at the end of the 10-year period. The utility shall elect when the 10-year period shall commence for the metrics set forth in subparagraphs (1) through (4) and (9) of this subsection (f), provided that it begins no later than 14 months following the date on which the utility begins investing pursuant to subsection (b) of this Section, and when the 10-year period shall commence for the metrics set forth in subparagraphs (5) through (8) of this subsection (f), provided that it begins no later than 14 months following the date on which the Commission enters its order approving the utility's Advanced Metering Infrastructure Deployment Plan pursuant to subsection (c) of Section 16-108.6 of this Act.

The metrics and performance goals set forth in subparagraphs (5) through (8) of this subsection (f) are based on the assumptions that the participating utility may fully implement the technology described in subsection (b) of this Section, including utilizing the full functionality of such technology and that there is no requirement for personal on-site notification. If the utility is unable to meet the

metrics and performance goals set forth in subparagraphs (5) through (8) of this subsection (f) for such reasons, and the Commission so finds after notice and hearing, then the utility shall be excused from compliance, but only to the limited extent achievement of the affected metrics and performance goals was hindered by the less than full implementation.

(f-5) The financial penalties applicable to the metrics described in subparagraphs (1) through (8) of subsection (f) of this Section, as applicable, shall be applied through an adjustment to the participating utility's return on equity of no more than a total of 30 basis points in each of the first 3 years, of no more than a total of 34 basis points in each of the 3 years thereafter, and of no more than a total of 38 basis points in each of the 4 years thereafter, as follows:

(1) With respect to each of the incremental annual performance goals established pursuant to paragraph (1) of subsection (f) of this Section,

(A) for each year that a participating utility other than a combination utility does not achieve the annual goal, the participating utility's return on equity shall be reduced as follows: during years 1 through 3, by 5 basis points; during years 4 through 6, by 6 basis points; and during years 7 through 10, by 7 basis points; and

(B) for each year that a participating utility that is a combination utility does not achieve the



annual goal, the participating utility's return on equity shall be reduced as follows: during years 1 through 3, by 10 basis points; during years 4 through 6, by 12 basis points; and during years 7 through 10, by 14 basis points.

(2) With respect to each of the incremental annual performance goals established pursuant to paragraph (2) of subsection (f) of this Section, for each year that the participating utility does not achieve each such goal, the participating utility's return on equity shall be reduced as follows: during years 1 through 3, by 5 basis points; during years 4 through 6, by 6 basis points; and during years 7 through 10, by 7 basis points.

(3) With respect to each of the incremental annual performance goals established pursuant to paragraphs (3) and (3.5) of subsection (f) of this Section, for each year that a participating utility other than a combination utility does not achieve both such goals, the participating utility's return on equity shall be reduced as follows: during years 1 through 3, by 5 basis points; during years 4 through 6, by 6 basis points; and during years 7 through 10, by 7 basis points.

(4) With respect to each of the incremental annual performance goals established pursuant to paragraph (4) of subsection (f) of this Section, for each year that the participating utility does not achieve each such goal, the

participating utility's return on equity shall be reduced as follows: during years 1 through 3, by 5 basis points; during years 4 through 6, by 6 basis points; and during years 7 through 10, by 7 basis points.

(5) With respect to each of the incremental annual performance goals established pursuant to subparagraph (5) of subsection (f) of this Section, for each year that the participating utility does not achieve at least 95% of each such goal, the participating utility's return on equity shall be reduced by 5 basis points for each such unachieved goal.

(6) With respect to each of the incremental annual performance goals established pursuant to paragraphs (6), (7), and (8) of subsection (f) of this Section, as applicable, which together measure non-operational customer savings and benefits relating to the implementation of the Advanced Metering Infrastructure Deployment Plan, as defined in Section 16-108.6 of this Act, the performance under each such goal shall be calculated in terms of the percentage of the goal achieved. The percentage of goal achieved for each of the goals shall be aggregated, and an average percentage value calculated, for each year of the 10-year period. If the utility does not achieve an average percentage value in a given year of at least 95%, the participating utility's return on equity shall be reduced by 5 basis points.

The financial penalties shall be applied as described in this subsection (f-5) for the 12-month period in which the deficiency occurred through a separate tariff mechanism, which shall be filed by the utility together with its metrics. In the event the formula rate tariff established pursuant to subsection (c) of this Section terminates, the utility's obligations under subsection (f) of this Section and this subsection (f-5) shall also terminate, provided, however, that the tariff mechanism established pursuant to subsection (f) of this Section and this subsection (f-5) shall remain in effect until any penalties due and owing at the time of such termination are applied.

The Commission shall, after notice and hearing, enter an order within 120 days after the metrics are filed approving, or approving with modification, a participating utility's tariff or mechanism to satisfy the metrics set forth in subsection (f) of this Section. On June 1 of each subsequent year, each participating utility shall file a report with the Commission that includes, among other things, a description of how the participating utility performed under each metric and an identification of any extraordinary events that adversely impacted the utility's performance. Whenever a participating utility does not satisfy the metrics required pursuant to subsection (f) of this Section, the Commission shall, after notice and hearing, enter an order approving financial penalties in accordance with this subsection (f-5). The

Commission-approved financial penalties shall be applied beginning with the next rate year. Nothing in this Section shall authorize the Commission to reduce or otherwise obviate the imposition of financial penalties for failing to achieve one or more of the metrics established pursuant to subparagraph (1) through (4) of subsection (f) of this Section.

(g) On or before July 31, 2014, each participating utility shall file a report with the Commission that sets forth the average annual increase in the average amount paid per kilowatthour for residential eligible retail customers, exclusive of the effects of energy efficiency programs, comparing the 12-month period ending May 31, 2012; the 12-month period ending May 31, 2013; and the 12-month period ending May 31, 2014. For a participating utility that is a combination utility with more than one rate zone, the weighted average aggregate increase shall be provided. The report shall be filed together with a statement from an independent auditor attesting to the accuracy of the report. The cost of the independent auditor shall be borne by the participating utility and shall not be a recoverable expense. "The average amount paid per kilowatthour" shall be based on the participating utility's tariffed rates actually in effect and shall not be calculated using any hypothetical rate or adjustments to actual charges (other than as specified for energy efficiency) as an input.

In the event that the average annual increase exceeds 2.5% as calculated pursuant to this subsection (g), then Sections 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of this Act, other than this subsection, shall be inoperative as they relate to the utility and its service area as of the date of the report due to be submitted pursuant to this subsection and the utility shall no longer be eligible to annually update the performance-based formula rate tariff pursuant to subsection (d) of this Section. In such event, the then current rates shall remain in effect until such time as new rates are set pursuant to Article IX of this Act, subject to retroactive adjustment, with interest, to reconcile rates charged with actual costs, and the participating utility's voluntary commitments and obligations under subsection (b) of this Section shall immediately terminate, except for the utility's obligation to pay an amount already owed to the fund for training grants pursuant to a Commission order issued under subsection (b) of this Section.

In the event that the average annual increase is 2.5% or less as calculated pursuant to this subsection (g), then the performance-based formula rate shall remain in effect as set forth in this Section.

For purposes of this Section, the amount per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis, and the total amount paid for electric service includes without limitation amounts paid for

supply, transmission, distribution, surcharges, and add-on taxes exclusive of any increases in taxes or new taxes imposed after October 26, 2011 (the effective date of Public Act 97-616). For purposes of this Section, "eligible retail customers" shall have the meaning set forth in Section 16-111.5 of this Act.

The fact that this Section becomes inoperative as set forth in this subsection shall not be construed to mean that the Commission may reexamine or otherwise reopen prudence or reasonableness determinations already made.

(h) By December 31, 2017, the Commission shall prepare and file with the General Assembly a report on the infrastructure program and the performance-based formula rate. The report shall include the change in the average amount per kilowatthour paid by residential customers between June 1, 2011 and May 31, 2017. If the change in the total average rate paid exceeds 2.5% compounded annually, the Commission shall include in the report an analysis that shows the portion of the change due to the delivery services component and the portion of the change due to the supply component of the rate. The report shall include separate sections for each participating utility.

Sections 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of this Act, other than this subsection (h) and subsection (i) of this Section, are inoperative after December 31, 2022 for every participating utility, after which time a participating

utility shall no longer be eligible to annually update the performance-based formula rate tariff pursuant to subsection (d) of this Section. At such time, the then current rates shall remain in effect until such time as new rates are set pursuant to Article IX of this Act, subject to retroactive adjustment, with interest, to reconcile rates charged with actual costs.

The fact that this Section becomes inoperative as set forth in this subsection shall not be construed to mean that the Commission may reexamine or otherwise reopen prudence or reasonableness determinations already made.

(i) While a participating utility may use, develop, and maintain broadband systems and the delivery of broadband services, voice-over-internet-protocol services, telecommunications services, and cable and video programming services for use in providing delivery services and Smart Grid functionality or application to its retail customers, including, but not limited to, the installation, implementation and maintenance of Smart Grid electric system upgrades as defined in Section 16-108.6 of this Act, a participating utility is prohibited from providing ~~offering~~ to its retail customers broadband services ~~or the delivery of broadband services~~, voice-over-internet-protocol services, telecommunications services, or cable or video programming services, unless they are part of a service directly related to delivery services or Smart Grid functionality or applications as defined in Section 16-108.6 of this Act, and

from recovering the costs of such offerings from retail customers. The prohibition set forth in this subsection (i) is inoperative after December 31, 2027 for every participating utility.

(j) Nothing in this Section is intended to legislatively overturn the opinion issued in Commonwealth Edison Co. v. Ill. Commerce Comm'n, Nos. 2-08-0959, 2-08-1037, 2-08-1137, 1-08-3008, 1-08-3030, 1-08-3054, 1-08-3313 cons. (Ill. App. Ct. 2d Dist. Sept. 30, 2010). Public Act 97-616 shall not be construed as creating a contract between the General Assembly and the participating utility, and shall not establish a property right in the participating utility.

(k) The changes made in subsections (c) and (d) of this Section by Public Act 98-15 are intended to be a restatement and clarification of existing law, and intended to give binding effect to the provisions of House Resolution 1157 adopted by the House of Representatives of the 97th General Assembly and Senate Resolution 821 adopted by the Senate of the 97th General Assembly that are reflected in paragraph (3) of this subsection. In addition, Public Act 98-15 preempts and supersedes any final Commission orders entered in Docket Nos. 11-0721, 12-0001, 12-0293, and 12-0321 to the extent inconsistent with the amendatory language added to subsections (c) and (d).

(1) No earlier than 5 business days after May 22, 2013 (the effective date of Public Act 98-15), each



participating utility shall file any tariff changes necessary to implement the amendatory language set forth in subsections (c) and (d) of this Section by Public Act 98-15 and a revised revenue requirement under the participating utility's performance-based formula rate. The Commission shall enter a final order approving such tariff changes and revised revenue requirement within 21 days after the participating utility's filing.

(2) Notwithstanding anything that may be to the contrary, a participating utility may file a tariff to retroactively recover its previously unrecovered actual costs of delivery service that are no longer subject to recovery through a reconciliation adjustment under subsection (d) of this Section. This retroactive recovery shall include any derivative adjustments resulting from the changes to subsections (c) and (d) of this Section by Public Act 98-15. Such tariff shall allow the utility to assess, on current customer bills over a period of 12 monthly billing periods, a charge or credit related to those unrecovered costs with interest at the utility's weighted average cost of capital during the period in which those costs were unrecovered. A participating utility may file a tariff that implements a retroactive charge or credit as described in this paragraph for amounts not otherwise included in the tariff filing provided for in paragraph (1) of this subsection (k). The

Commission shall enter a final order approving such tariff within 21 days after the participating utility's filing.

(3) The tariff changes described in paragraphs (1) and (2) of this subsection (k) shall relate only to, and be consistent with, the following provisions of Public Act 98-15: paragraph (2) of subsection (c) regarding year-end capital structure, subparagraph (D) of paragraph (4) of subsection (c) regarding pension assets, and subsection (d) regarding the reconciliation components related to year-end rate base and interest calculated at a rate equal to the utility's weighted average cost of capital.

(4) Nothing in this subsection is intended to effect a dismissal of or otherwise affect an appeal from any final Commission orders entered in Docket Nos. 11-0721, 12-0001, 12-0293, and 12-0321 other than to the extent of the amendatory language contained in subsections (c) and (d) of this Section of Public Act 98-15.

(1) Each participating utility shall be deemed to have been in full compliance with all requirements of subsection (b) of this Section, subsection (c) of this Section, Section 16-108.6 of this Act, and all Commission orders entered pursuant to Sections 16-108.5 and 16-108.6 of this Act, up to and including May 22, 2013 (the effective date of Public Act 98-15). The Commission shall not undertake any investigation of such compliance and no penalty shall be assessed or adverse action taken against a participating utility for noncompliance

with Commission orders associated with subsection (b) of this Section, subsection (c) of this Section, and Section 16-108.6 of this Act prior to such date. Each participating utility other than a combination utility shall be permitted, without penalty, a period of 12 months after such effective date to take actions required to ensure its infrastructure investment program is in compliance with subsection (b) of this Section and with Section 16-108.6 of this Act. Provided further, the following subparagraphs shall apply to a participating utility other than a combination utility:

(A) if the Commission has initiated a proceeding pursuant to subsection (e) of Section 16-108.6 of this Act that is pending as of May 22, 2013 (the effective date of Public Act 98-15), then the order entered in such proceeding shall, after notice and hearing, accelerate the commencement of the meter deployment schedule approved in the final Commission order on rehearing entered in Docket No. 12-0298;

(B) if the Commission has entered an order pursuant to subsection (e) of Section 16-108.6 of this Act prior to May 22, 2013 (the effective date of Public Act 98-15) that does not accelerate the commencement of the meter deployment schedule approved in the final Commission order on rehearing entered in Docket No. 12-0298, then the utility shall file with the Commission, within 45 days after such effective date, a plan for accelerating the

commencement of the utility's meter deployment schedule approved in the final Commission order on rehearing entered in Docket No. 12-0298; the Commission shall reopen the proceeding in which it entered its order pursuant to subsection (e) of Section 16-108.6 of this Act and shall, after notice and hearing, enter an amendatory order that approves or approves as modified such accelerated plan within 90 days after the utility's filing; or

(C) if the Commission has not initiated a proceeding pursuant to subsection (e) of Section 16-108.6 of this Act prior to May 22, 2013 (the effective date of Public Act 98-15), then the utility shall file with the Commission, within 45 days after such effective date, a plan for accelerating the commencement of the utility's meter deployment schedule approved in the final Commission order on rehearing entered in Docket No. 12-0298 and the Commission shall, after notice and hearing, approve or approve as modified such plan within 90 days after the utility's filing.

Any schedule for meter deployment approved by the Commission pursuant to this subsection (1) shall take into consideration procurement times for meters and other equipment and operational issues. Nothing in Public Act 98-15 shall shorten or extend the end dates for the 5-year or 10-year periods set forth in subsection (b) of this Section or Section 16-108.6 of this Act. Nothing in this subsection is intended

to address whether a participating utility has, or has not, satisfied any or all of the metrics and performance goals established pursuant to subsection (f) of this Section.

(m) The provisions of Public Act 98-15 are severable under Section 1.31 of the Statute on Statutes.

(Source: P.A. 99-143, eff. 7-27-15; 99-642, eff. 7-28-16; 99-906, eff. 6-1-17; 100-840, eff. 8-13-18.)

(220 ILCS 5/16-108.30)

Sec. 16-108.30. Energy Transition Assistance Fund.

(a) The Energy Transition Assistance Fund is hereby created as a special fund in the State Treasury. The Energy Transition Assistance Fund is authorized to receive moneys collected pursuant to this Section. Subject to appropriation, the Department of Commerce and Economic Opportunity shall use moneys from the Energy Transition Assistance Fund consistent with the purposes of this Act.

(b) An electric utility serving more than 500,000 customers in the State shall assess an energy transition assistance charge on all its retail customers for the Energy Transition Assistance Fund. The utility's total charge shall be set based upon the value determined by the Department of Commerce and Economic Opportunity pursuant to subsection (d) or (e), as applicable, of Section 605-1075 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois. For each utility, the charge

shall be recovered through a single, uniform cents per kilowatt-hour charge applicable to all retail customers. For each utility, the charge shall not exceed 1.3% of the amount paid per kilowatthour by eligible retail ~~these~~ customers during the year ending May 31, 2009.

(c) Within 75 days of the effective date of this amendatory Act of the 102nd General Assembly, each electric utility serving more than 500,000 customers in the State shall file with the Illinois Commerce Commission tariffs incorporating the energy transition assistance charge in other charges stated in such tariffs, which energy transition assistance charges shall become effective no later than the beginning of the first billing cycle that begins on or after January 1, 2022. Each electric utility serving more than 500,000 customers in the State shall, prior to the beginning of each calendar year starting with calendar year 2023, file with the Illinois Commerce Commission tariff revisions to incorporate annual revisions to the energy transition assistance charge as prescribed by the Department of Commerce and Economic Opportunity pursuant to Section 605-1075 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois so that such revision becomes effective no later than the beginning of the first billing cycle in each respective year.

(d) The energy transition assistance charge shall be considered a charge for public utility service.

(e) By the 20th day of the month following the month in which the charges imposed by this Section were collected, each electric utility serving more than 500,000 customers in the State shall remit to Department of Revenue all moneys received as payment of the energy transition assistance charge on a return prescribed and furnished by the Department of Revenue showing such information as the Department of Revenue may reasonably require. If a customer makes a partial payment, a public utility may apply such partial payments first to amounts owed to the utility. No customer may be subjected to disconnection of his or her utility service for failure to pay the energy transition assistance charge.

If any payment provided for in this subsection exceeds the electric utility's liabilities under this Act, as shown on an original return, the Department may authorize the electric utility to credit such excess payment against liability subsequently to be remitted to the Department under this Act, in accordance with reasonable rules adopted by the Department.

All the provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act that are not inconsistent with this Act apply, as far as practicable, to the charge imposed by this Act to the same extent as if those provisions were included in this Act. References in the incorporated Sections of the Retailers' Occupation Tax Act to retailers, to sellers, or to persons engaged in the business of selling

tangible personal property mean persons required to remit the charge imposed under this Act.

(f) The Department of Revenue shall deposit into the Energy Transition Assistance Fund all moneys remitted to it in accordance with this Section.

(g) The Department of Revenue may establish such rules as it deems necessary to implement this Section.

(h) The Department of Commerce and Economic Opportunity may establish such rules as it deems necessary to implement this Section.

(Source: P.A. 102-662, eff. 9-15-21.)

(220 ILCS 5/16-111.11 new)

Sec. 16-111.11. Supplier diversity reporting for non-utilities.

(a) The following entities shall submit an annual supplier diversity report to the Commission for a given year:

(1) entities that received a contract to provide more than 10,000 renewable energy credits approved by the Commission in a given year pursuant to subparagraph (iii) of paragraph (5) of subsection (b) of Section 16-111.5;

(2) entities that received a contract to provide more than 10,000 renewable energy credits approved by the Commission in a given year pursuant to subsection (e) of Section 16-111.5;

(3) alternative retail electric suppliers that have



yearly sales in the State of 1,000,000,000 kilowatt hours or more, and alternative gas suppliers as defined in Section 19-105 that have yearly sales in the State of 1,000,000 dekatherms or more;

(4) entities constructing or operating an HVDC transmission line as defined in Section 1-10 of the Illinois Power Agency Act or entities constructing or operating transmission facilities under a certificate of public convenience and necessity issued pursuant to subsection (b-5) of Section 8-406;

(5) entities installing more than 100 energy efficiency measures with a certificate approved by the Commission pursuant to Section 16-128B; and

(6) other suppliers of electricity generated from any resource, including, but not limited to, hydro, nuclear, coal, natural gas, and any other supplier of energy within this State.

(b) An annual report filed pursuant to this Section shall be filed on an electronic form as designed by the Commission by June 1, 2023 and every June 1 thereafter, in a searchable Adobe PDF format, on all procurement goals and actual spending for women-owned businesses, minority-owned businesses, veteran-owned businesses, and small business enterprises in the previous calendar year related to the performance of obligations in the State of the contracts of licenses listed in subsection (a). These goals shall be expressed as a

percentage of the total work performed by the entity submitting the report. The actual spending for all women-owned businesses, minority-owned businesses, veteran-owned businesses, and small business enterprises shall also be expressed as a percentage of the total work performed by the entity submitting the report. Notwithstanding any provision of law to the contrary, any entity with obligations related to equity eligible actions pursuant to the Illinois Power Agency Act may express such goals and spending in those terms.

Each participating entity in its annual report shall include the following information related to the entity's operations in the State related to the certificates or activities listed in subsection (a):

(1) an explanation of the plan for the next year to increase participation;

(2) an explanation of the plan to increase the goals;

(3) the areas of procurement each entity shall be actively seeking more participation in the next year;

(4) an outline of the plan to alert and encourage potential vendors in that area to seek business from the entity;

(5) an explanation of the challenges faced in finding quality vendors and offer any suggestions for what the Commission could do to be helpful to identify those vendors;

(6) a list of the certifications the entity

recognizes;

(7) the point of contact for any potential vendor who wants to do business with the entity and explain the process for a vendor to enroll with the company as a minority-owned, women-owned, or veteran-owned company; and

(8) any particular success stories to encourage other entities to emulate best practices.

(c) Each annual report shall include as much State-specific data as possible. If the submitting entity does not submit State-specific data, then the entity shall include any national data it does have and explain why it could not submit State-specific data and how it intends to do so in future reports.

(d) Each annual report shall include the rules, regulations, and definitions used for the procurement goals in the entity's annual report.

(e) Each annual report filed or submitted under this Section shall be submitted with the Commission. The Commission shall not be required or authorized to compel production of any report under this Section. The Commission shall hold an annual workshop open to the public in 2024 and every year thereafter on the state of supplier diversity to collaboratively seek solutions to structural impediments to achieving stated goals, including testimony from participating entities as well as subject matter experts and advocates in a non-antagonistic manner. The Commission shall invite all

entities submitting a report pursuant to this Section. The Commission shall publish a database on its website of the point of contact for each participating entity for supplier diversity, along with a list of certifications each company recognizes from the information submitted in each annual report. The Commission shall publish each annual report on its website and shall maintain each annual report for at least 5 years.

Section 1-15. The Environmental Protection Act is amended by changing Section 9.15 as follows:

(415 ILCS 5/9.15)

Sec. 9.15. Greenhouse gases.

(a) An air pollution construction permit shall not be required due to emissions of greenhouse gases if the equipment, site, or source is not subject to regulation, as defined by 40 CFR 52.21, as now or hereafter amended, for greenhouse gases or is otherwise not addressed in this Section or by the Board in regulations for greenhouse gases. These exemptions do not relieve an owner or operator from the obligation to comply with other applicable rules or regulations.

(b) An air pollution operating permit shall not be required due to emissions of greenhouse gases if the equipment, site, or source is not subject to regulation, as

defined by Section 39.5 of this Act, for greenhouse gases or is otherwise not addressed in this Section or by the Board in regulations for greenhouse gases. These exemptions do not relieve an owner or operator from the obligation to comply with other applicable rules or regulations.

(c) (Blank).

(d) (Blank).

(e) (Blank).

(f) As used in this Section:

"Carbon dioxide emission" means the plant annual CO<sub>2</sub> total output emission as measured by the United States Environmental Protection Agency in its Emissions & Generation Resource Integrated Database (eGrid), or its successor.

"Carbon dioxide equivalent emissions" or "CO<sub>2</sub>e" means the sum total of the mass amount of emissions in tons per year, calculated by multiplying the mass amount of each of the 6 greenhouse gases specified in Section 3.207, in tons per year, by its associated global warming potential as set forth in 40 CFR 98, subpart A, table A-1 or its successor, and then adding them all together.

"Cogeneration" or "combined heat and power" refers to any system that, either simultaneously or sequentially, produces electricity and useful thermal energy from a single fuel source.

"Copollutants" refers to the 6 criteria pollutants that have been identified by the United States Environmental

Protection Agency pursuant to the Clean Air Act.

"Electric generating unit" or "EGU" means a fossil fuel-fired stationary boiler, combustion turbine, or combined cycle system that serves a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale.

"Environmental justice community" means the definition of that term based on existing methodologies and findings, used and as may be updated by the Illinois Power Agency and its program administrator in the Illinois Solar for All Program.

"Equity investment eligible community" or "eligible community" means the geographic areas throughout Illinois that would most benefit from equitable investments by the State designed to combat discrimination and foster sustainable economic growth. Specifically, eligible community means the following areas:

(1) areas where residents have been historically excluded from economic opportunities, including opportunities in the energy sector, as defined as R3 areas pursuant to Section 10-40 of the Cannabis Regulation and Tax Act; and

(2) areas where residents have been historically subject to disproportionate burdens of pollution, including pollution from the energy sector, as established by environmental justice communities as defined by the Illinois Power Agency pursuant to the Illinois Power

Agency Act, excluding any racial or ethnic indicators.

"Equity investment eligible person" or "eligible person" means the persons who would most benefit from equitable investments by the State designed to combat discrimination and foster sustainable economic growth. Specifically, eligible person means the following people:

(1) persons whose primary residence is in an equity investment eligible community;

(2) persons whose primary residence is in a municipality, or a county with a population under 100,000, where the closure of an electric generating unit or mine has been publicly announced or the electric generating unit or mine is in the process of closing or closed within the last 5 years;

(3) persons who are graduates of or currently enrolled in the foster care system; or

(4) persons who were formerly incarcerated.

"Existing emissions" means:

(1) for CO<sub>2</sub>e, the total average tons-per-year of CO<sub>2</sub>e emitted by the EGU or large GHG-emitting unit either in the years 2018 through 2020 or, if the unit was not yet in operation by January 1, 2018, in the first 3 full years of that unit's operation; and

(2) for any copollutant, the total average tons-per-year of that copollutant emitted by the EGU or large GHG-emitting unit either in the years 2018 through

2020 or, if the unit was not yet in operation by January 1, 2018, in the first 3 full years of that unit's operation.

"Green hydrogen" means a power plant technology in which an EGU creates electric power exclusively from electrolytic hydrogen, in a manner that produces zero carbon and copollutant emissions, using hydrogen fuel that is electrolyzed using a 100% renewable zero carbon emission energy source.

"Large greenhouse gas-emitting unit" or "large GHG-emitting unit" means a unit that is an electric generating unit or other fossil fuel-fired unit that itself has a nameplate capacity or serves a generator that has a nameplate capacity greater than 25 MWe and that produces electricity, including, but not limited to, coal-fired, coal-derived, oil-fired, natural gas-fired, and cogeneration units.

"NO<sub>x</sub> emission rate" means the plant annual NO<sub>x</sub> total output emission rate as measured by the United States Environmental Protection Agency in its Emissions & Generation Resource Integrated Database (eGrid), or its successor, in the most recent year for which data is available.

"Public greenhouse gas-emitting units" or "public GHG-emitting unit" means large greenhouse gas-emitting units, including EGUs, that are wholly owned, directly or indirectly, by one or more municipalities, municipal corporations, joint municipal electric power agencies, electric cooperatives, or other governmental or nonprofit entities, whether organized



and created under the laws of Illinois or another state.

"SO<sub>2</sub> emission rate" means the "plant annual SO<sub>2</sub> total output emission rate" as measured by the United States Environmental Protection Agency in its Emissions & Generation Resource Integrated Database (eGrid), or its successor, in the most recent year for which data is available.

(g) All EGUs and large greenhouse gas-emitting units that use coal or oil as a fuel and are not public GHG-emitting units shall permanently reduce all CO<sub>2</sub>e and copollutant emissions to zero no later than January 1, 2030.

(h) All EGUs and large greenhouse gas-emitting units that use coal as a fuel and are public GHG-emitting units shall permanently reduce CO<sub>2</sub>e emissions to zero no later than December 31, 2045. Any source or plant with such units must also reduce their CO<sub>2</sub>e emissions by 45% from existing emissions by no later than January 1, 2035. If the emissions reduction requirement is not achieved by December 31, 2035, the plant shall retire one or more units or otherwise reduce its CO<sub>2</sub>e emissions by 45% from existing emissions by June 30, 2038.

(i) All EGUs and large greenhouse gas-emitting units that use gas as a fuel and are not public GHG-emitting units shall permanently reduce all CO<sub>2</sub>e and copollutant emissions to zero, including through unit retirement or the use of 100% green hydrogen or other similar technology that is commercially proven to achieve zero carbon emissions, according to the

following:

(1) No later than January 1, 2030: all EGUs and large greenhouse gas-emitting units that have a NO<sub>x</sub> emissions rate of greater than 0.12 lbs/MWh or a SO<sub>2</sub> emission rate of greater than 0.006 lb/MWh, and are located in or within 3 miles of an environmental justice community designated as of January 1, 2021 or an equity investment eligible community.

(2) No later than January 1, 2040: all EGUs and large greenhouse gas-emitting units that have a NO<sub>x</sub> emission rate of greater than 0.12 lbs/MWh or a SO<sub>2</sub> emission rate greater than 0.006 lb/MWh, and are not located in or within 3 miles of an environmental justice community designated as of January 1, 2021 or an equity investment eligible community. After January 1, 2035, each such EGU and large greenhouse gas-emitting unit shall reduce its CO<sub>2</sub>e emissions by at least 50% from its existing emissions for CO<sub>2</sub>e, and shall be limited in operation to, on average, 6 hours or less per day, measured over a calendar year, and shall not run for more than 24 consecutive hours except in emergency conditions, as designated by a Regional Transmission Organization or Independent System Operator.

(3) No later than January 1, 2035: all EGUs and large greenhouse gas-emitting units that began operation prior to the effective date of this amendatory Act of the 102nd General Assembly and have a NO<sub>x</sub> emission rate of less than

or equal to 0.12 lb/MWh and a SO<sub>2</sub> emission rate less than or equal to 0.006 lb/MWh, and are located in or within 3 miles of an environmental justice community designated as of January 1, 2021 or an equity investment eligible community. Each such EGU and large greenhouse gas-emitting unit shall reduce its CO<sub>2</sub>e emissions by at least 50% from its existing emissions for CO<sub>2</sub>e no later than January 1, 2030.

(4) No later than January 1, 2040: All remaining EGUs and large greenhouse gas-emitting units that have a heat rate greater than or equal to 7000 BTU/kWh. Each such EGU and Large greenhouse gas-emitting unit shall reduce its CO<sub>2</sub>e emissions by at least 50% from its existing emissions for CO<sub>2</sub>e no later than January 1, 2035.

(5) No later than January 1, 2045: all remaining EGUs and large greenhouse gas-emitting units.

(j) All EGUs and large greenhouse gas-emitting units that use gas as a fuel and are public GHG-emitting units shall permanently reduce all CO<sub>2</sub>e and copollutant emissions to zero, including through unit retirement or the use of 100% green hydrogen or other similar technology that is commercially proven to achieve zero carbon emissions by January 1, 2045.

(k) All EGUs and large greenhouse gas-emitting units that utilize combined heat and power or cogeneration technology shall permanently reduce all CO<sub>2</sub>e and copollutant emissions to zero, including through unit retirement or the use of 100%

green hydrogen or other similar technology that is commercially proven to achieve zero carbon emissions by January 1, 2045.

(k-5) No EGU or large greenhouse gas-emitting unit that uses gas as a fuel and is not a public GHG-emitting unit may emit, in any 12-month period, CO<sub>2</sub>e or copollutants in excess of that unit's existing emissions for those pollutants.

(1) Notwithstanding subsections (g) through (k-5), large GHG-emitting units including EGUs may temporarily continue emitting CO<sub>2</sub>e and copollutants ~~greenhouse gases~~ after any applicable deadline specified in any of subsections (g) through (k-5) if it has been determined, as described in paragraphs (1) and (2) of this subsection, that ongoing operation of the EGU is necessary to maintain power grid supply and reliability or ongoing operation of large GHG-emitting unit that is not an EGU is necessary to serve as an emergency backup to operations. Up to and including the occurrence of an emission reduction deadline under subsection (i), all EGUs and large GHG-emitting units must comply with the following terms:

(1) if an EGU or large GHG-emitting unit that is a participant in a regional transmission organization intends to retire, it must submit documentation to the appropriate regional transmission organization by the appropriate deadline that meets all applicable regulatory requirements necessary to obtain approval to permanently

cease operating the large GHG-emitting unit;

(2) if any EGU or large GHG-emitting unit that is a participant in a regional transmission organization receives notice that the regional transmission organization has determined that continued operation of the unit is required, the unit may continue operating until the issue identified by the regional transmission organization is resolved. The owner or operator of the unit must cooperate with the regional transmission organization in resolving the issue and must reduce its emissions to zero, consistent with the requirements under subsection (g), (h), (i), (j), (k), or (k-5), as applicable, as soon as practicable when the issue identified by the regional transmission organization is resolved; and

(3) any large GHG-emitting unit that is not a participant in a regional transmission organization shall be allowed to continue emitting CO<sub>2</sub>e and copollutants ~~greenhouse gases~~ after the zero-emission date specified in subsection (g), (h), (i), (j), (k), or (k-5), as applicable, in the capacity of an emergency backup unit if approved by the Illinois Commerce Commission.

(m) No variance, adjusted standard, or other regulatory relief otherwise available in this Act may be granted to the emissions reduction and elimination obligations in this Section.

(n) By June 30 of each year, beginning in 2025, the Agency shall prepare and publish on its website a report setting forth the actual greenhouse gas emissions from individual units and the aggregate statewide emissions from all units for the prior year.

(o) Every 5 years beginning in 2025, the Environmental Protection Agency, Illinois Power Agency, and Illinois Commerce Commission shall jointly prepare, and release publicly, a report to the General Assembly that examines the State's current progress toward its renewable energy resource development goals, the status of CO<sub>2</sub>e and copollutant emissions reductions, the current status and progress toward developing and implementing green hydrogen technologies, the current and projected status of electric resource adequacy and reliability throughout the State for the period beginning 5 years ahead, and proposed solutions for any findings. The Environmental Protection Agency, Illinois Power Agency, and Illinois Commerce Commission shall consult PJM Interconnection, LLC and Midcontinent Independent System Operator, Inc., or their respective successor organizations regarding forecasted resource adequacy and reliability needs, anticipated new generation interconnection, new transmission development or upgrades, and any announced large GHG-emitting unit closure dates and include this information in the report. The report shall be released publicly by no later than December 15 of the year it is prepared. If the Environmental

Protection Agency, Illinois Power Agency, and Illinois Commerce Commission jointly conclude in the report that the data from the regional grid operators, the pace of renewable energy development, the pace of development of energy storage and demand response utilization, transmission capacity, and the CO<sub>2</sub>e and copollutant emissions reductions required by subsection (i) or (k-5) reasonably demonstrate that a resource adequacy shortfall will occur, including whether there will be sufficient in-state capacity to meet the zonal requirements of MISO Zone 4 or the PJM ComEd Zone, per the requirements of the regional transmission organizations, or that the regional transmission operators determine that a reliability violation will occur during the time frame the study is evaluating, then the Illinois Power Agency, in conjunction with the Environmental Protection Agency shall develop a plan to reduce or delay CO<sub>2</sub>e and copollutant emissions reductions requirements only to the extent and for the duration necessary to meet the resource adequacy and reliability needs of the State, including allowing any plants whose emission reduction deadline has been identified in the plan as creating a reliability concern to continue operating, including operating with reduced emissions or as emergency backup where appropriate. The plan shall also consider the use of renewable energy, energy storage, demand response, transmission development, or other strategies to resolve the identified resource adequacy shortfall or reliability violation.

(1) In developing the plan, the Environmental Protection Agency and the Illinois Power Agency shall hold at least one workshop open to, and accessible at a time and place convenient to, the public and shall consider any comments made by stakeholders or the public. Upon development of the plan, copies of the plan shall be posted and made publicly available on the Environmental Protection Agency's, the Illinois Power Agency's, and the Illinois Commerce Commission's websites. All interested parties shall have 60 days following the date of posting to provide comment to the Environmental Protection Agency and the Illinois Power Agency on the plan. All comments submitted to the Environmental Protection Agency and the Illinois Power Agency shall be encouraged to be specific, supported by data or other detailed analyses, and, if objecting to all or a portion of the plan, accompanied by specific alternative wording or proposals. All comments shall be posted on the Environmental Protection Agency's, the Illinois Power Agency's, and the Illinois Commerce Commission's websites. Within 30 days following the end of the 60-day review period, the Environmental Protection Agency and the Illinois Power Agency shall revise the plan as necessary based on the comments received and file its revised plan with the Illinois Commerce Commission for approval.

(2) Within 60 days after the filing of the revised



plan at the Illinois Commerce Commission, any person objecting to the plan shall file an objection with the Illinois Commerce Commission. Within 30 days after the expiration of the comment period, the Illinois Commerce Commission shall determine whether an evidentiary hearing is necessary. The Illinois Commerce Commission shall also host 3 public hearings within 90 days after the plan is filed. Following the evidentiary and public hearings, the Illinois Commerce Commission shall enter its order approving or approving with modifications the reliability mitigation plan within 180 days.

(3) The Illinois Commerce Commission shall only approve the plan if the Illinois Commerce Commission determines that it will resolve the resource adequacy or reliability deficiency identified in the reliability mitigation plan at the least amount of CO<sub>2</sub>e and copollutant emissions, taking into consideration the emissions impacts on environmental justice communities, and that it will ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account the impact of increases in emissions.

(4) If the resource adequacy or reliability deficiency identified in the reliability mitigation plan is resolved or reduced, the Environmental Protection Agency and the Illinois Power Agency may file an amended plan adjusting

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the reduction or delay in CO<sub>2</sub>e and copollutant emission  
reduction requirements identified in the plan.

(Source: P.A. 102-662, eff. 9-15-21.)

Article 99.

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