

Appendix C

Legislative Compliance Index

The Illinois Power Agency (“IPA” or “Agency”) has assembled an index of the applicable Carbon Mitigation Credit procurement requirements applicable to the Agency or which the Agency has authority to interpret through this Plan, and a citation for which section(s) of the Plan address each requirement.

The IPA notes that although the list is intended to be broad, it is not comprehensive of every legal requirement related to the Plan. Requirements applicable to the Commission or other parties are generally not addressed in this index. Omission of a statutory or other requirement should not be interpreted as waiver of the requirement by the IPA or a suggestion that the Commission criteria for review should be altered in any way.

Topical headings shaded in gray are intended for the aid of the reader and are not necessarily reflective of statutory organization.

Plan Section	Legal Authority
	<i>Development & Approval of Procurement Plan</i>
	<i>20 ILCS 3855/1-75(d-10)(3)(D)</i>
2.4	No later than 7 days after the effective date of this amendatory Act of the 102nd General Assembly, the Agency shall publish its proposed carbon mitigation credit procurement plan.
	<i>20 ILCS 3855/1-75(d-10)(3)(D)</i>
2.4	Upon publishing of the carbon mitigation credit procurement plan, copies of the plan shall be posted and made publicly available on the Agency's website. All interested parties shall have 7 days following the date of posting to provide comment to the Agency on the plan. All comments shall be posted to the Agency's website. Following the end of the comment period, but no more than 19 days later than the effective date of this amendatory Act of the 102nd General Assembly, the Agency shall revise the plan as necessary based on the comments received and file its carbon mitigation credit procurement plan with the Commission.
	<i>20 ILCS 3855/1-75(d-10)(3)(E)</i>
2.4	If the Commission determines that the plan is likely to result in the procurement of cost-effective carbon mitigation credits, then the Commission shall, after notice and hearing and opportunity for comment, but no later than 42 days after the Agency filed the plan, approve the plan or approve it with modification.
	<i>220 ILCS 5/16-111.5(a)</i>
3.3, 6.4	Beginning with the delivery year commencing on June 1, 2022, an electric utility serving over 3,000,000 customers shall also procure carbon mitigation credits from carbon-free energy resources in accordance with the applicable provisions set forth in Section 1-75 of the Illinois Power Agency Act and this Section.

**Illinois Power Agency
Carbon Mitigation Credit Procurement Plan
Appendix C: Legislative Compliance Index**

	<i>Facility Eligibility & Qualification</i>
	<i>20 ILCS 3855/1-75(d-10)(2)</i>
2.3, 3.1, 6.5	"Carbon-free energy resource" means a generation facility that: (1) is fueled by nuclear power; and (2) is interconnected to PJM Interconnection, LLC.
	<i>20 ILCS 3855/1-75(d-10)(3)(B)</i>
Appendix B, 2.4, 6.1	<p>(B) Each carbon-free energy resource that intends to participate in a procurement shall be required to submit to the Agency the following information for the resource on or before the date established by the Agency:</p> <ul style="list-style-type: none"> (i) the in-service date and remaining useful life of the carbon-free energy resource; (ii) the amount of power generated annually for each of the past 10 years, which shall be used to determine the capability of each facility; (iii) a commitment to be reflected in any contract entered into pursuant to this subsection (d-10) to continue operating the carbon-free energy resource at a capacity factor of at least 88% annually on average for the duration of the contract or contracts executed under the procurement held under this subsection (d-10), except in an instance described in subparagraph (E) of paragraph (1) of subsection (d-5) of this Section or made impracticable as a result of compliance with law or regulation; (iv) financial need and the risk of loss of the environmental benefits of such resource, which shall include the following information: <ul style="list-style-type: none"> (I) the carbon-free energy resource's cost projections, expressed on a per megawatt-hour basis, over the next 5 delivery years, which shall include the following: operation and maintenance expenses; fully allocated overhead costs, which shall be allocated using the methodology developed by the Institute for Nuclear Power Operations; fuel expenditures; nonfuel capital expenditures; spent fuel expenditures; a return on working capital; the cost of operational and market risks that could be avoided by ceasing operation; and any other costs necessary for continued operations, provided that "necessary" means, for purposes of this subitem (I), that the costs could reasonably be avoided only by ceasing operations of the carbon-free energy resource; and (II) the carbon-free energy resource's revenue projections, including energy, capacity, ancillary services, any other direct State support, known or anticipated federal attribute credits, known or anticipated tax credits, and any other direct federal support.

**Illinois Power Agency
Carbon Mitigation Credit Procurement Plan
Appendix C: Legislative Compliance Index**

	<i>Facility Selection</i>
	<i>20 ILCS 3855/1-75(d-10)(3)(A)</i>
2.3, 3.3, 4.3, 6.2	Beginning with the delivery year commencing on June 1, 2022, the Agency shall, for electric utilities serving at least 3,000,000 retail customers in the State, seek to procure contracts for no more than approximately 54,500,000 cost-effective carbon mitigation credits from carbon-free energy resources because such credits are necessary to support current levels of carbon-free energy generation and ensure the State meets its carbon dioxide emissions reduction goals. The Agency shall not make a partial award of a contract for carbon mitigation credits covering a fractional amount of a carbon-free energy resource's projected output.
	<i>20 ILCS 3855/1-75(d-10)(3)(C)</i>
6.1	The Agency shall solicit bids for the contracts described in this subsection (d-10) from carbon-free energy resources that have satisfied the requirements of subparagraph (B) of this paragraph (3).
	<i>20 ILCS 3855/1-75(d-10)(3)(C)(iv)</i>
3.2, 3.4, 3.5	<p>To ensure that retail customers in Northern Illinois do not pay more for carbon mitigation credits than the value such credits provide, and notwithstanding the provisions of this subsection (d-10), the Agency shall not accept bids for contracts that exceed a customer protection cap equal to the baseline costs of carbon-free energy resources. The baseline costs for the applicable year shall be the following:</p> <ul style="list-style-type: none"> (I) For the delivery year beginning June 1, 2022, the baseline costs shall be an amount equal to \$30.30 per megawatt-hour. (II) For the delivery year beginning June 1, 2023, the baseline costs shall be an amount equal to \$32.50 per megawatt-hour. (III) For the delivery year beginning June 1, 2024, the baseline costs shall be an amount equal to \$33.43 per megawatt-hour. (IV) For the delivery year beginning June 1, 2025, the baseline costs shall be an amount equal to \$33.50 per megawatt-hour. (V) For the delivery year beginning June 1, 2026, the baseline costs shall be an amount equal to \$34.50 per megawatt-hour.

**Illinois Power Agency
Carbon Mitigation Credit Procurement Plan
Appendix C: Legislative Compliance Index**

	<i>20 ILCS 3855/1-75(d-10)(3)(D)</i>
Chapter 5	<p>The Plan shall provide that winning bids shall be selected by taking into consideration which resources best match public interest criteria that include, but are not limited to, minimizing carbon dioxide emissions that result from electricity consumed in Illinois and minimizing sulfur dioxide, nitrogen oxide, and particulate matter emissions that adversely affect the citizens of this State. The selection of winning bids shall also take into account the incremental environmental benefits resulting from the procurement or procurements, such as any existing environmental benefits that are preserved by a procurement held under this subsection (d-10) and would cease to exist if the procurement were not held, including the preservation of carbon-free energy resources.</p> <p>The Plan shall describe in detail how each public interest factor shall be considered and weighted in the bid selection process to ensure that the public interest criteria are applied to the procurement.</p>
3.6	For those bidders having the same public interest criteria score, the relative ranking of such bidders shall be determined by price.
2.3, 4.2	The Plan shall, to the extent practical and permissible by federal law, ensure that successful bidders make commercially reasonable efforts to apply for federal tax credits, direct payments, or similar subsidy programs that support carbon-free generation and for which the successful bidder is eligible.

**Illinois Power Agency
Carbon Mitigation Credit Procurement Plan
Appendix C: Legislative Compliance Index**

<i>Carbon Mitigation Credits, Prices, and Deliveries</i>	
	<i>20 ILCS 3855/1-75(d-10)(2)</i>
2.3, 3.1, 5.1	"Carbon mitigation credit" means a tradable credit that represents the carbon emission reduction attributes of one megawatt-hour of energy produced from a carbon-free energy resource.
	<i>20 ILCS 3855/1-75(d-10)(3)(C)(iii)</i>
4.2	<p>The price per carbon mitigation credit to be paid under a contract for a given delivery year shall be equal to an accepted bid price less the sum of:</p> <p>(I) one of the following energy price indices, selected by the bidder at the time of the bid for the term of the contract:</p> <p style="padding-left: 40px;">(aa) the weighted-average hourly day-ahead price for the applicable delivery year at the busbar of all resources procured pursuant to this subsection (d-10), weighted by actual production from the resources; or</p> <p style="padding-left: 40px;">(bb) the projected energy price for the PJM Interconnection, LLC Northern Illinois Hub for the applicable delivery year determined according to subitem (aa) of item (iii) of subparagraph (B) of paragraph (1) of subsection (d-5).</p> <p>(II) the Base Residual Auction Capacity Price for the ComEd zone as determined by PJM Interconnection, LLC, divided by 24 hours per day, for the applicable delivery year for the first 3 delivery years, and then any subsequent delivery years unless the PJM Interconnection, LLC applies the Minimum Offer Price Rule to participating carbon-free energy resources because they supply carbon mitigation credits pursuant to this Section at which time, upon notice by the carbon-free energy resource to the Commission and subject to the Commission's confirmation, the value under this subitem shall be zero, as further described in the carbon mitigation credit procurement plan; and</p> <p>(III) any value of monetized federal tax credits, direct payments, or similar subsidy provided to the carbon-free energy resource from any unit of government that is not already reflected in energy prices.</p> <p>If the price-per-megawatt-hour calculation performed under item (iii) of this subparagraph (C) for a given delivery year results in a net positive value, then the electric utility counterparty to the contract shall multiply such net value by the applicable contract quantity and remit the amount to the supplier.</p> <p>To protect retail customers from retail rate impacts that may arise upon the initiation of carbon policy changes, if the price-per-megawatt-hour calculation performed under item (iii) of this subparagraph (C) for a given delivery year results in a net negative value, then the supplier counterparty to the contract shall multiply such net value by the applicable</p>

**Illinois Power Agency
Carbon Mitigation Credit Procurement Plan
Appendix C: Legislative Compliance Index**

	contract quantity and remit such amount to the electric utility counterparty. The electric utility shall reflect such amounts remitted by suppliers as a credit on its retail customer bills as soon as practicable.
	<i>20 ILCS 3855/1-75(d-10)(3)(G)</i>
6.5	The counterparty electric utility shall retire all carbon mitigation credits used to comply with the requirements of this subsection (d-10).
	<i>20 ILCS 3855/1-75(i)</i>
6.5	A renewable energy credit, carbon emission credit, or zero emission credit, or carbon mitigation credit can only be used once to comply with a single portfolio or other standard as set forth in subsection (c), subsection (d), or subsection (d-5) of this Section, respectively. A renewable energy credit, carbon emission credit, or zero emission credit, or carbon mitigation credit cannot be used to satisfy the requirements of more than one standard. If more than one type of credit is issued for the same megawatt hour of energy, only one credit can be used to satisfy the requirements of a single standard. After such use, the credit must be retired together with any other credits issued for the same megawatt hour of energy.

**Illinois Power Agency
Carbon Mitigation Credit Procurement Plan
Appendix C: Legislative Compliance Index**

	<i>Carbon Mitigation Credit Contracts</i>
	<i>20 ILCS 3855/1-75(d-10)(B)</i>
3.2, 3.4, 3.5	"Baseline costs" means costs used to establish a customer protection cap that have been evaluated through an independent audit of a carbon-free energy resource conducted by the Environmental Protection Agency that evaluated projected annual costs for operation and maintenance expenses; fully allocated overhead costs, which shall be allocated using the methodology developed by the Institute for Nuclear Power Operations; fuel expenditures; nonfuel capital expenditures; spent fuel expenditures; a return on working capital; the cost of operational and market risks that could be avoided by ceasing operation; and any other costs necessary for continued operations, provided that "necessary" means, for purposes of this definition, that the costs could reasonably be avoided only by ceasing operations of the carbon-free energy resource.
	<i>20 ILCS 3855/1-75(d-10)(3)(C)</i>
3.3, 4.2	The contracts procured pursuant to a procurement event shall reflect, and be subject to, the following terms, requirements, and limitations: (i) Contracts are for delivery of carbon mitigation credits, and are not energy or capacity sales contracts requiring physical delivery. Pursuant to item (iii), contract payments shall fully deduct the value of any monetized federal production tax credits, credits issued pursuant to a federal clean energy standard, and other federal credits if applicable.
2.3, 6.4	(ii) Contracts for carbon mitigation credits shall commence with the delivery year beginning on June 1, 2022 and shall be for a term of 5 delivery years concluding on May 31, 2027.
	<i>20 ILCS 3855/1-75(d-10)(3)(E)</i>
6.3	Following the completion of such procurements, and consistent with this paragraph (3), the Agency shall calculate the payments to be made under each contract in a timely fashion.

**Illinois Power Agency
Carbon Mitigation Credit Procurement Plan
Appendix C: Legislative Compliance Index**

	<i>Procurement Process</i>
	<i>20 ILCS 3855/1-75(d-10)(3)(E)</i>
6.2, 6.3	<p>As part of the Commission's review and acceptance or rejection of the procurement results [...]</p> <p style="text-align: center;"><i>*demonstrating that procurement results must be submitted by the IPA to the Commission</i></p>
4.2	<p>For purposes of this subsection (d-10), "cost-effective" means carbon mitigation credits that are procured from carbon-free energy resources at prices that are within the limits specified in this paragraph (3).</p>
	<i>20 ILCS 3855/1-75(d-10)(3)(F)</i>
2.4, 3.6, 6.2, 6.4	<p>The procurements described in this paragraph (3), including, but not limited to, the execution of all contracts procured, shall be completed no later than December 3, 2021.</p> <p>However, the Agency and Commission may, as appropriate, modify the various dates and timelines under this subparagraph and subparagraphs (D) and (E) of this paragraph (3) to meet the December 3, 2021 contract execution deadline.</p>
3.6, Ch. 6	<p>The procurement and plan approval processes required by this paragraph (3) shall be conducted in conjunction with the procurement and plan approval processes required by Section 16-111.5 of the Public Utilities Act, to the extent practicable.</p>

**Illinois Power Agency
Carbon Mitigation Credit Procurement Plan
Appendix C: Legislative Compliance Index**

	<i>Miscellaneous</i>
	<i>20 ILCS 3855/1-75(d-10)(3)(B)</i>
6.1	The information described in this subparagraph (B) may be submitted on a confidential basis and shall be treated and maintained by the Agency, the procurement administrator, and the Commission as confidential and proprietary and exempt from disclosure under subparagraphs (a) and (g) of paragraph (1) of Section 7 of the Freedom of Information Act. The Office of the Attorney General shall have access to, and maintain the confidentiality of, such information pursuant to Section 6.5 of the Attorney General Act.
	<i>20 ILCS 3855/1-75(d-10)(3)(H)</i>
3.3	If a carbon-free energy resource is sold to another owner, the rights, obligations, and commitments under this subsection (d-10) shall continue to the subsequent owner.
	<i>20 ILCS 3855/1-75(d-10)(3)(I)</i>
2.3, 5.1	This subsection (d-10) shall become inoperative on January 1, 2028.