

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

<b>Illinois Power Agency</b>	)	
	)	
Petition for Approval of the	)	Docket No. 11-0660
220 ILCS 5/16-111.5(d) Procurement Plan	)	
	)	

**ILLINOIS COMPETITIVE ENERGY ASSOCIATION’S  
VERIFIED RESPONSE TO CERTAIN OBJECTIONS  
TO THE ILLINOIS POWER AGENCY’S 2012 PROCUREMENT PLAN**

The Illinois Competitive Energy Association (“ICEA”) submits, pursuant to Section 16-111.5(d)(3) of the Illinois Public Utilities Act (“PUA”),<sup>1</sup> this verified response (“Response”) to certain objections (“Objections”) to the Procurement Plan (“Plan”) that was filed with the Illinois Commerce Commission (“Commission”) by the Illinois Power Agency (“IPA”). ICEA does not respond to every Objection raised by other parties in this proceeding, and its silence does not imply acceptance of or agreement with those Objections.

In this Response ICEA generally reiterates its previously filed Objections to the Plan and more specifically: (1) supports modifications to the Plan recommended by Staff directly relating to the calculation of the Alternative Compliance Payment (“ACP”) rate; (2) restates its objections to the IPA’s clean coal proposal, and acknowledges and supports certain Objections raised by other parties on that issue; and (3) restates its objections to the long-term renewable energy credit (“REC”) acquisition, specifically disputing Wind on the Wires (“WOW”)’s Objections and the proposed calculation of net present value as it relates to REC acquisition.

---

<sup>1</sup> 220 ILCS 5/116-111.5(d)(3).

## **I. ICEA Supports Staff's Recommendations to Modify the Plan to Release Certain Information Previously Held Confidential**

In its Objections, Staff identifies the rationale behind the original reason for keeping confidential the product-specific (wind versus solar PV) price, quantity results, and IPA's forward price curve, all related to the December 2010 long-term bundled contract procurement. More importantly, however, Staff provides ample support for why that information should now be released. As Staff articulates in its Objections, this information is pertinent to each of the next 20 annual IPA procurement plan proceedings, and interveners in procurement plan cases have a legitimate need for this information.<sup>2</sup>

Additionally, the release of this information is supported by the fact that each year the Commission must post an ACP rate for the State's renewable portfolio standard ("RPS"), applicable to ARES based on the utilities' expenditures on RECs. Staff argues that release of this ACP rate information will have the same effect as releasing the forward energy prices, one year at a time.<sup>3</sup> Staff acknowledges that starting with the 2012-13 compliance period, and continuing for one additional compliance period, this ACP rate must exclude the impact of the solar PV requirement. Thus, not only will the forward energy prices be revealed, individual product prices will also be revealed, unless the method of computing the ACP during these two years is kept secret, as well.<sup>4</sup>

ICEA agrees with Staff's arguments and rationale, and supports its specific recommendation to amend the Plan to include: (1) the expected aggregate imputed cost of RECs

---

<sup>2</sup> Staff Objections at 27.

<sup>3</sup> *Id.* at 28.

<sup>4</sup> *Id.*

acquired through the December 2010 procurement event, for each utility; (2) the expected aggregate quantity of RECs acquired through that procurement event, for each utility and for each resource type (wind and solar PV); and (3) the IPA's energy market price forecast for the 20 years beginning June 2012.<sup>5</sup>

## **II. ICEA Supports Staff's Proposed Method for Removing the Cost of PV Solar from the ACP**

In its Objections, Staff identifies, and ICEA agrees, that the IPA Plan fails to establish the maximum ACP rate for the 2012-13 plan period and fails to address the statutory requirement for ACP rates during the 2012-13 and 2013-14 plan years to exclude any added cost of solar resources. To rectify this situation, Staff proposes a specific method for computing "the total amount of dollars that the utility contracted to spend on renewable resources, excepting the additional incremental cost attributable to solar resources," as required by the PUA.<sup>6</sup> Staff's proposal is set forth in detail on pages 30-31 of its Objections:

First, the total MWHs of RECs being purchased for the compliance period and the total dollars contracted to be spent on those RECs would be summed separately for solar photovoltaic RECs and all other RECs ("non-solar RECs"). The average price of the selected non-solar RECs would be computed by dividing the dollars to be spent on the selected non-solar RECs by the total number of non-solar RECs under contract. This average price (which effectively excludes any incremental cost attributable to solar resources) would be multiplied by the total number of RECs purchased (both solar photovoltaic and non-solar). To obtain the alternative compliance payment rate, this product would be divided by the forecasted load of eligible retail customers, at the customers' meters.<sup>7</sup>

---

<sup>5</sup> *Id.* at 28-29.

<sup>6</sup> 220 ILCS 5/116-111.5(d)(1).

<sup>7</sup> Staff's Objections at 30-31.

ICEA fully supports the proposed method, which, as acknowledged by Staff, is required for the Plan to comply with the PUA.

### **III. The IPA Procurement Plan Should Not Solicit Bids for Long-term RECs**

The Commission should reject the IPA's proposal to solicit REC bids for "multiple compliance years" with terms up to 20 years because the IPA has failed to support its position.<sup>8</sup> ICEA initially opposed this proposal because it provides no benefits to consumers but will assuredly increase prices for ARES' customers. At least 50% of ARES' RPS compliance obligation must be satisfied via payment of ACPs,<sup>9</sup> the rate for which is directly derived from the amount eligible customers pay for renewable resources procured by the IPA. Longer-term REC contracts are inherently more expensive, and projecting both the volume requirements and REC market prices for anything longer than a year is fundamentally risky, which the IPA itself admitted in its plan.<sup>10</sup> No Objections filed by any parties dispute these claims. To the contrary, several parties' Objections support ICEA's arguments. The Retail Energy Supply Association ("RESA"), Constellation, Staff, Commonwealth Edison ("ComEd"), and Exelon Generation ("ExGen") all presented similar arguments to oppose the acquisition of RECs with up to 20-year terms in the IPA's Plan.

For example, ComEd provided evidence that the extreme uncertainty about its future load would increase the cost and risk of procuring longer term RECs.<sup>11</sup> It also noted that the dollars committed to long-term renewables pursuant to the 2010 Plan already account for over 45% of

---

<sup>8</sup> Plan at 1, 50.

<sup>9</sup> 220 ILCS 5/16-115D(d).

<sup>10</sup> See *Ill. Power Agency's Initial Power Procurement Plan to the Ill. Commerce Comm'n*, at 2 (Oct. 20, 2008).

<sup>11</sup> ComEd Objections at 8.

the current renewables budget, supporting the argument that longer-term RECs are intrinsically more expensive than shorter-term RECs and not needed.<sup>12</sup> Staff called the proposal to solicit REC bids for 1 – 20 years “too vague and open-ended” and recommended it be “rejected in favor of 1 year contracts for the proximate planning period.”<sup>13</sup>

In fact, the only party in favor of 20-year RECs was WOW. In its Objections, WOW argues that the IPA’s usage of net present value (“NPV”) is biased toward the procurement of short-term RECs.<sup>14</sup> While ICEA agrees with Staff that the IPA’s proposal to use NPV should be clarified,<sup>15</sup> ICEA disagrees with WOW’s calculations. It is unclear from WOW’s NPV table how it actually reached its conclusions. As ICEA understands it, WOW concluded that \$1 1-year RECs, \$10 10-year RECs, and \$20 20-year RECs are in some way equivalent, and then constructed its NPV calculation based on that assumption. WOW does not explain how it developed its assumptions or why it chose the values that it did. Clearly, any NPV model is only as good as the assumed values: the use of unjustified and unexplained inputs limits the significance of WOW’s conclusions.

Regardless, the underlying theme of WOW’s Objection seems to be that the market risk of REC prices increases over time, and therefore, locking in longer-term contracts would provide price stability for consumers. But WOW ignores the risk of coupling long-term REC procurement with uncertain load forecasts. As was noted previously by ComEd and ICEA in

---

<sup>12</sup> *Id.*

<sup>13</sup> Staff’s Objections at 10.

<sup>14</sup> WOW’s Objections at 3.

<sup>15</sup> Staff’s Objections at 10-15.

their Objections,<sup>16</sup> the IPA itself has recognized the significant risk posed by load migration and the imprudence of entering into long-term contracts based on current assumptions. Thus, even if WOW's proposal would result in stable prices, because the amount of load over which those prices are spread is uncertain, long-term REC procurement would actually *increase* risk to consumers.<sup>17</sup> That is, WOW's proposal to lock-in REC prices, without correspondingly locking in the amount of load over which those prices are paid, does not reduce volatility but instead magnifies risks to consumers and suppliers.<sup>18</sup> This proposal does not meet the PUA's "lowest total cost over time" standard and should be rejected.

Based on the arguments presented above and the broad range of support against the proposal, the Commission should require the IPA to remove the proposal to acquire long-term RECs.

#### **IV. The IPA Should Eliminate the Plan's Clean Coal Requirement**

As noted previously, the Plan includes a proposal to procure up to 250 MW of electricity generated by a clean coal facility.<sup>19</sup> Contrary to the IPA's assertions, and the Objections filed by FutureGen, the procurement of clean coal is not required by the Illinois Power Agency Act ("the Act").<sup>20</sup> The requirement exists *only at such time* as the utilities enter into sourcing agreements with the "initial clean coal facility," which is a defined term under the Act. No party asserted in their Objections that such an "initial clean coal facility" exists. As numerous parties noted in

---

<sup>16</sup> ComEd Objections at 9-13; ICEA Objections at 4.

<sup>17</sup> *See generally* ComEd Objections at 9-13; ICEA Objections at 4; Objections of Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. at 12-14.

<sup>18</sup> *See* ExGen's Objections at 3-4.

<sup>19</sup> Plan at 54-55.

<sup>20</sup> 20 ILCS 3855/1-1 *et seq.*

their Objections,<sup>21</sup> without a statutory mandate requiring the procurement of power generated by clean coal facilities, no basis exists for imposing these exorbitant costs on consumers.<sup>22</sup>

Since there is no requirement to include clean coal in the procurement, the IPA can only do so provided it will “ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability.”<sup>23</sup> There has been no credible argument made by any party that electricity from a clean coal facility meets the “lowest total cost” requirement of the Illinois Public Utilities Act (“PUA”), and indeed, in its draft plan, the IPA did not even try. The only party who supported the clean coal procurement in its Objections likewise was unable to provide any evidence to support this requirement. Other parties demonstrated the opposite: that inclusion of the clean coal mandate would increase costs to consumers over time.<sup>24</sup> Many parties in addition to ICEA have opposed the clean coal requirement including Staff, Ameren, RESA, Constellation, ComEd, and ExGen. This diverse group of parties raised issues similar to those echoed by ICEA, illustrating the depth of the problem.

ICEA further noted in its Objections, however, that because the clean coal portfolio standard applies a cost cap for clean coal procurement on the utilities’ eligible customers, but none for the ARES’ customers, the IPA’s proposal places even greater risk on the latter. It is

---

<sup>21</sup> See, e.g., ICEA’s Objections at 5-6; ComEd Objections at 13-22.

<sup>22</sup> This conclusion has been reached by all parties, including the IPA and the Commission, in the previous two procurement plans since the amendments became effective. See generally *Ill. Power Agency Power Procurement Plan to the Ill. Comm. Comm’n*, Docket No. 09-0373 (Ill. Commerce Comm’n, Sept. 30, 2009); *Ill. Power Agency Power Procurement Plan to the Ill. Comm. Comm’n*, Docket No. 10-0563 (Ill. Commerce Comm’n, Sept. 29, 2010); *Final Order*, Docket No. 09-0373 (Ill. Commerce Comm’n, Dec. 28, 2009); *Final Order*, Docket No. 10-0563 (Ill. Commerce Comm’n, Dec. 21, 2010).

<sup>23</sup> 220 ILCS 5/16-111.5(j)(ii); 20 ILCS 3855/1-5.

<sup>24</sup> See, e.g., ComEd Objections, Tolley Affidavit.

unlikely that 250 MW of electricity from clean coal – because of its significantly above market costs – could be procured over the next 20 years by eligible customers alone because of the statutory cost cap. This is especially true given the recent positive developments in retail competition and potential for significantly increased shopping among the residential customers over those years. Given the existing language of the clean coal portfolio standard and failure of the legislation to provide any protection to ARES’ customers, it is a significant risk that ARES’ customers will be called upon to help fund the clean coal contracts the eligible customers cannot.

In light of the arguments presented above and the range of support against the proposal, the Commission should require the IPA to modify the Plan to eliminate the clean coal requirement.

## **V. Conclusion**

ICEA respectfully requests the Commission to modify the Plan in accordance with the recommendations herein and as outlined in ICEA’s previously filed Objections to the Plan.

Dated: October 18, 2011

Respectfully submitted,

THE ILLINOIS COMPETITIVE ENERGY ASSOCIATION

By: /s/ Kevin Wright  
Kevin Wright  
President  
Illinois Competitive Energy Association  
1601 Clearview Drive  
Springfield, IL 62704  
217-741-5217  
wright2192@sbcglobal.net



By: /s/ Eve Moran  
Eve Moran  
128 S. Halsted Street  
Chicago, IL 60661  
312-720-5803  
eve.jean.moran@gmail.com

**NOTICE OF FILING**

Please take note that on October 18, 2011, I caused to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission, the attached Illinois Competitive Energy Association's Verified Response to Certain Objection to the Illinois Power Agency's 2012 Procurement Plan with the Verification of Kevin Wright together with a Notice of Filing and Certificate of Service in ICC Docket No. 11-0660.

Dated: October 18, 2011

/s/ Eve Moran

Eve Moran

128 S. Halsted Street

Chicago, IL 60661

312-720-5803

eve.jean.moran@gmail.com

Attorney for the Illinois Competitive Energy Association

**CERTIFICATE OF SERVICE**

I, Eve Moran, certify that I caused to be served copies of the foregoing Illinois Competitive Energy Association's Verified Response to Certain Objection to the Illinois Power Agency's 2012 Procurement Plan with the Verification of Kevin Wright along with the documents noted above upon the parties on the service list maintained on the Illinois Commerce Commission's eDocket system for docket 11-0660 via electronic delivery on October 18, 2011.

/s/ Eve Moran

Eve Moran

128 S. Halsted Street

Chicago, IL 60661

312-720-5803

eve.jean.moran@gmail.com

Attorney for the Illinois Competitive Energy Association

