COMMENTS BY THE STAFF OF THE ILLINOIS COMMERCE COMMISSION ON THE ILLINOIS POWER AGENCY'S DRAFT LONG-TERM RENEWABLES RESOURCES PROCUREMENT PLAN RELEASED SEPTEMBER 29, 2017

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On September 29, 2017, pursuant to Section 16-111.5(b)(5)) of the Illinois Public Utilities Act ("PUA") and Section 1-56(b) and 1-75(c) of the Illinois Power Agency Act ("IPA" and "IPA Act"), the IPA made available to the public a Long-Term Renewables Resources Procurement Plan ("Draft Plan") and invited affected utilities and other interested parties to submit comments on the Draft Plan by November 13, 2017. In response, the Staff of the Illinois Commerce Commission ("Staff") hereby submits these comments to the IPA. The outline of these comments follows the outline of the Draft Plan.

Staff has two types of comments on the Draft Plan. The first type are specific, non-substantive corrections and/or clarifications to the Draft Plan. Since those non-substantive comments for corrections/clarifications are self-explanatory, the comments are simply identified by yellow highlight and redline/strike-through changes to the Draft Plan. The second type of comments are substantive comments on the Draft Plan. Staff's comments follow.

COMMENTS

[Section 6.8.3; Page 106]:

> "Projects that start construction in 2017, 2018, and 2019 will receive a 30% Investment Tax Credit; projects that start construction in 2020 and 2021 will receive 26% and 22%, respectively; after that, the credit will drop permanently to 10% for commercial projects and 0% for ~~solar~~ residential projects."

[Section 2.2.5.1; Page 13]: The IPA states the following:

> "This raises the following question: does the Agency have the authority to propose (and does the Commission have the authority to approve) REC procurement structures different from a "competitive procurement event" or a statutorily-defined "program"? Stated differently, could the Agency propose the procurement of RECs to meet targets in Section 1-75(c) in a manner distinct from a competitive procurement process or "program"—such as, for instance, a standard offer price for a fixed quantity of RECs from a specific generating facility type, or a competitive procurement process in which bids are selected on a basis other than price—so long as it abides by the requirement to use those defined structures when specifically applicable? While no such alternative procurement processes are proposed as part of this Plan, the Agency believes the answer to this question is "yes," as the portions of the law which make clear when a competitive procurement process must be used effectively sanction the use of a different process (so long as not otherwise inconsistent with state law) in cases when they do not (such as meeting the percentage-based targets of Section 1-75(c)(1)(A), for instance). The Agency would be interested in feedback on this topic as part of comments on its draft Plan."

While Staff agrees that this may be a potential question that needs to be addressed in the future, Staff recommends that the Plan not raise this question for a Commission decision at this point. As no such "alternative procurement processes" are proposed as part of this Plan, Staff recommends that the Commission decide "only" the many issues needing a resolution at this time.

[Section 3.2;Page 44.]: The Draft Plan references Alternative Retail Electric Supplier RPS obligations, stating "[u]nder the new RPS requirements, after a two-year transition period, the IPA will be responsible for procuring RECs for virtually all retail load in Illinois, including load served by ARES." Draft Plan, 44. With respect to MidAmerican's service area, however, the Draft Plan states "For MidAmerican, consistent with the Commission's Order in Docket No. 15-0541, the IPA understands that Section 1-75(c)'s renewable energy procurement targets should 'only relate to that portion of the "total supply" procured for MidAmerican's jurisdictional eligible retail customers,' and not

all retail sales in its service territory." Draft Plan, 9, footnote 22. The IPA calculates MidAmerican's RPS budget and cost allocations based solely upon MidAmerican's load covered by IPA procurements (see Draft Plan, 43, Table 3-1, Draft Plan 46, Draft Plan 51, Table 3-8) and makes no accommodation to purchase renewable energy credits for MidAmerican's retail customers served by an ARES.

The effect of this approach is that, RPS obligations related to ARES customers, instead of being consolidated with the RPS obligations for the utilities' supply customers as they are for ComEd's and Ameren's service areas, are phased out entirely in MidAmerican's service area under the Draft Plan.

In its Order in Docket No. 15-0541, the Commission found that "the statutes should be interpreted such that the renewable resources targets should only relate to that portion of the 'total supply' procured for MidAmerican's jurisdictional eligible retail customers that is included in the 2016 Procurement Plan pursuant to Section 16.111.5 of the PUA and Section 1-75(c) of the IPA Act." Thus, prior to P.A. 99-0906 MidAmerican was subject to RPS requirements only on the portion of its supply load procured through the IPA procurement process. ARES, pursuant to Section 16-115D of the PUA, had the option to comply with their RPS obligations by making alternative compliance payments (ACP), which were based upon the actual amount of dollars that MidAmerican contracted to spend on renewable resources for the delivery year divided by the forecasted load of its supply customers for that delivery year. For MidAmerican's service area, the numerator of the ACP calculation was based upon RPS obligations with respect to only the portion of its supply customers covered by IPA procurements while the denominator was based upon the full load of its supply customers. The ACP value was, therefore, a value prorated

based upon the share of MidAmerican's supply load covered by the IPA procurement. In effect, ARES were subject to RPS obligations on a share of their load equal to the percentage of MidAmerican's supply load covered by the IPA procurement.

Staff recommends that the Procurement Plan include this same approach going forward and recommends that the IPA calculate MidAmerican's RPS budget and cost allocations based upon MidAmerican's load covered by IPA procurements plus a share of the ARES load in MidAmerican's service area equal to the percentage of MidAmerican's supply load covered by the IPA procurement. Not only is this approach consistent with that in the past, but under this approach the RPS obligation and related costs to ARES customers and MidAmerican supply customers will be equal and competitively neutral.

As a result, Staff recommends that the IPA accordingly revise the portions of the Plan that reference MidAmerican's RPS budget and cost allocations. Several tables and parts of the Plan will need to be revised and the following on page 46 of the Draft Plan is just one example:

> MidAmerican's status as a multi-jurisdictional utility which uses its own generating resources to meet a portion of its Illinois load creates a unique situation for RPS compliance. Unlike Ameren Illinois and ComEd, for which all retail load is subject to the RPS goals and targets, the MidAmerican load for which the RPS goals and targets are applicable is only the load that is subject to the IPA procurement process for conventional power. That amount is the load which is in excess of MidAmerican's Illinois-allocated generation in any given delivery year, which is approximately only 25-35% of its total jurisdictional load, plus the share of the ARES load in MidAmerican's service area equal to the share of MidAmerican's supply load covered by the IPA procurement.

[Section 4; Pages 60-68.):

In Chapter 4, starting on page 60, the Draft Plan addresses Public Act 99-0906's locational preferences for RECs used to meet the new Illinois RPS requirements. Staff applauds the IPA for proposing a deliberate, transparent, and quantitative approach to the law's mandate that the plan "describe in detail how each public interest factor shall be considered and weighted for facilities located in states adjacent to Illinois." 20 ILCS 3855/1-75(c)(1)(I). Staff agrees that "the complex nature of an interconnected electric power grid" and the flow of pollution across states makes it impossible to come up with "one clear, unassailable way to determine how a renewable energy facility in an adjacent state will meet the public interest criteria." Draft Plan at 61. Staff believes that the IPA has indeed developed "reasonable proxies for each criterion." Id. Furthermore, Staff has no objection to the IPA's proposal to assign a maximum of 20 points to each of the five public interest criteria, for a total of 100 possible points. Id.

However, while it may not be unreasonable to propose a single threshold that determines whether a facility is eligible to bid RECs at an Illinois procurement event, Staff offers an alternative that resembles more of a sliding scale. Instead of denying the request of an adjacent state facility with a total score of 59 and approving the request of an adjacent state facility with a total score of 60, it may be a worthwhile consideration to allow adjacent state facilities with a greater than zero point value to participate in Illinois REC procurement events and to adjust a facility's bid according to its total public interest score.

Consider the following illustrative example: Ten facilities are bidding RECs at a procurement event. Five bidders are facilities located in Illinois and five bidders are facilities located in an adjacent state and all five of those adjacent state facilities have a greater-than-zero public interest score, as determined by the IPA's proposed calculation. Assume that the bids from the five facilities in Illinois come in at $23, $29, $38, $41, and $51, respectively, and that adjacent state facility bidder A bids at $25, bidder B at $30, bidder C at $41, bidder D at $37, and bidder E at $49. Assume the five adjacent state facilities have total public interest scores of 33 (bidder A), 52 (bidder B), 68 (bidder C), 80 (bidder D), and 91 (bidder E). Taking into account the total public interest score of the five adjacent state facilities and using an adjustment factor of say, 0.005, the adjusted bids would be as follows: bidder A: $25x(1+(100-33x0.005)=$33.38, bidder B: $30x(1+(100-52x0.005)=$37.20, bidder C: $41x(1+(100-68x0.005)=$47.56, bidder D: $37x(1+(100-80x0.005)=$40.70, bidder E: $49x(1+(100-91x0.005)=$50.96. To be clear, bid adjustments would be used solely for the purpose of ordering bids. Once the bids are ordered, the IPA would select bids based upon that ordering, but would, either until it meets its quantity targets or exhausts its available budget, pay for RECs based on actual bids.

Both the IPA's proposal to use a single all-or-nothing cut-off of 60 points and Staff's "sliding scale" proposal implement the law's locational preference for renewable energy facilities located in Illinois. However, under the IPA's proposed 60 point cut-off, adjacent state facilities with scores below that cut-off would not be allowed to bid RECs at an Illinois procurement, regardless of whether a facility's calculated total score is 58 or 3 points. Staff's proposal would still follow the IPA's proposed scoring methodology for the five

public interest criteria but it would reflect Section 1-75(c)(1)(I)'s preference for Illinois facilities in a more gradual fashion than the IPA's proposed in-or-out threshold of 60 points. Just like there is no empirical basis for the IPA's proposed value of 60 points as the qualifying threshold, the use of an adjustment factor of 0.005 is meant to be a starting point for discussion and Staff used this value mainly for purposes of illustration. In fact, a hybrid of the IPA's 60-point cut-off and Staff's proposal described above would be to employ a larger adjustment factor for facilities with scores below 60 than for facilities with point values above 60. Doing so would not "punish" facilities with scores at or above 60 as heavily as facilities with scores below 60. This is more in line with the IPA's proposal because facilities with 60 points or higher would not be punished vis-à-vis Illinois facilities at all under the IPA proposal. Again, Staff agrees with the IPA that there is not "one clear, unassailable way" to determine how a renewable energy facility in an adjacent state shall be considered and weighted for facilities located in states adjacent to Illinois. Draft Plan at 61.

In accordance with the discussion above, Staff proposes the following changes to the Plan:

> To assess whether a renewable generating facility located in an adjacent state is eligible to participate in the IPA's REC procurements to meet the Illinois RPS, the Agency proposes to assign a maximum of 20 points to each of the five public interest criteria, as described below, for a total of 100 possible points. A facility in an adjacent state that requests to have its RECs considered eligible for the Illinois RPS would need to demonstrate that it can achieve a total score of greater than zero~~at least 60 points~~ for the Agency to approve that request. Bids from a renewable generating facility located in an adjacent state will be adjusted as follows: bid amount per REC x (1+(100-total public interest points)x0.005).

[Section 5.9; pages 88-90]

When it comes to the proposed REC Spot Procurements, the draft Plan correctly notes that due to the narrower geographic eligibility of REC facilities as well as the prohibition of RECs from generating units with costs recovered through regulated rates, "the pool of eligible RECs will be smaller than for many of the previous REC procurements conducted by the IPA." Draft Plan at 89. However, the Draft Plan proposes to make the pool of eligible RECs even smaller when it proposes to deviate from past REC Spot Procurement RFPs and only procure "RECs from the applicable delivery year (in other words, the vintage of the RECs must match the delivery year for which the Spot Procurement is meant to meet the RPS goals)." Draft Plan at 89. In prior REC Spot Procurements, eligible RECs included those RECs generated during the delivery year as well as the January-May period prior to the delivery year.[1] Staff recommends that the IPA maintain this larger REC vintage period for the three proposed Spot Procurements because it increases the likelihood of meeting the overall RPS requirements and it may reduce costs to ratepayers.

In accordance with the discussion above, Staff proposes the following changes to the Plan:

> Each procurement will be designed to procure the remaining RECs required to meet that delivery year's REC goals, and will only be for RECs from the applicable delivery year <u>and the five-month period prior to the delivery year</u> (in other words, the vintage[256] of the RECs must match the delivery year for which the Spot Procurement is meant to meet the RPS goals <u>or the five-month period immediately prior to that delivery year</u>). These procurements will contain the following provisions, but otherwise will be conducted in a manner similar to the previous IPA REC procurements and will be

[1] See, for example, Spring 2016 REC RFP Rules at https://www.ipa-energyrfp.com/?wpfb_dl=807.

conducted consistent with the requirements of Section 16-111.5 of the PUA, to the extent practicable.

CONCLUSION

Staff respectfully requests that the Illinois Power Agency revise its Draft Plan consistent with Staff's Comments herein.

Respectfully submitted,

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