Comment from Mattoon Power Enterprises LLC,
Involving Summary of Concern with
Illinois Power Agency 2019 Draft Procurement Plan that
Omits Statutorily-Required Clean Coal Component

Sent by email, with original to follow by U.S. post:

c/o Mr. Mario Bohorquez
Planning and Procurement Bureau Chief
160 North LaSalle Street
Chicago, IL 60601

This comment is submitted by Mattoon Power Enterprises LLC (MPE), a project company established[1] to develop a clean coal technology coal-fired pressurized fluidized bed generating facility at Mattoon, on the site acquired by Coles Together, and selected by the U.S. Department of Energy for its previous FutureGen project. This comment is meant to compliment the contemporaneous comment of Coles Together on the pending Draft Procurement Plan.

In its pending Draft 2019 Procurement Plan (August 15, 2018), the Illinois Power Agency (IPA) fails to include a provision for procurement of electricity generated by clean coal facilities despite existing provisions of the Illinois Power Agency Act[2] (the Act) that mandates that the IPA include certain types of clean energy in its annual procurement plan, including … Clean Coal Technology (CCT)[3].

With the significant, direct financial support of the State of Illinois, provided to help the State attain it's "clean coal" statutory requirement[4], Mattoon Power Enterprises' (MPE)[5] current management and staff[6] began "front end design" in 2012 to develop a commercial scale Clean Coal Technology (CCT) power plant at Mattoon, Illinois. In addition to satisfying the statutory "clean coal" requirement, captured CO_2 from this coal-fired plant will be used to establish a new enhanced oil recovery (EOR) industry in Illinois, beginning with candidate fields that have been identified around Mattoon[7].

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[1] By a predecessor, Sargas, Inc.

[2] 20 ILCS 3855

[3] The Act specifies three categories of CCT plants: An "initial" CCT Plant, a "retrofit" CCT Plant, and "any other" CCT Plant that meets certain emissions criteria including 90% CO2 capture and other emissions basically like a natural gas combined cycle plant. The contemplated plant meets this latter definition.

The Act further requires that the electricity procured by the IPA through competitive bids be purchased by the Investor Owned Utilities (IOUs) and the Alternate Retail Electric Suppliers (ARES), and the impact on retail rates from the procurement of electricity from CCT facilities be an increase of no more than 2.015%.

[4] Illinois Power Agency Act.

[5] An Ohio LLC, a licensed project company and commercial successor (with same management and enhanced staff as Sargas, Inc.), that became independent upon the 2015 restructuring in Oslo of Sargas Inc's. parent, Sargas AS.

[6] Including work supported by grants totaling $1.7 million from the Department of Commerce and Economic Opportunity

[7] "The State should encourage the use of advanced clean coal technologies that capture and sequester carbon dioxide emissions to advance environmental protection goals and to demonstrate the viability of coal and coal-derived fuels in a carbon-constrained economy", IPA at (10)

Under its then-current corporate structure, as Sargas, Inc., MPE's current staff submitted a public comment to the IPA's 2015 procurement plan that urged the IPA and Illinois Commerce Commission (ICC), per their statutory authority, to include, as mandated a clean coal provision in *that* procurement plan, and during discussion with IPA and ICC during consideration of that comment and plan, submitted a *pro forma* demonstration that the cost to be generated by the Mattoon facility would be well-below the statutory limits of rate increase(s), even though Mattoon's costs (at that time) needed to be considered with the now-cancelled FutureGen 2.0 project, for which a power purchase agreement had been made.

Since then, we have been pleased to receive legislative support (HB 1848) for correction of the obvious definitional deficiencies of the clean coal mandate, and MPE anticipates needing to undertake the task of supporting the ICC in a litigation context, should the risk of same be brought upon the State by the lobbying community. There is pending a legislative correction to the current, incorrect definition of "clean coal".

MPE reiterates all previous arguments and assertions of its 2015 comment(s), in this comment on the Draft 2019 procurement plan, and in addition, summarizes the current thrust of this comment's argument as follows:

- In its responses (oral and written) to the 2015 comments, the IPA and ICC acknowledged that issuing such a procurement and granting such a PPA *would* be within their discretion (but subject to legal challenge by utilities, their lobbyists and / or other interested entities), and a legislative change[8] would thus be "better";
- Accordingly, at substantial effort, MPE and Coles Together have achieved the legislative introduction of HB 1848[9], a pending definitional modification to clarify that "our" sort of clean coal would properly fall within the 25%; and
- MPE's proposed project received, most recently in August 2018 an explicit, public statement of support from Governor Rauner at meetings in Mattoon[10] that he supported our plan, and "would see that it gets done"; so
- Accordingly, the IPA and ICC should exercise their discretion under their statutory mandate, pending (or explicitly conditioned upon) the legislative and gubernatorial approval expected during the pendency of these public comments and move Illinois forward toward its clean coal goal.

Assuming the IPA corrects its procurement plan to conform with the legal requirement to include clean coal projects, MPE intends to bid its CCT energy to the IPA, on a competitive basis, to secure a power

[8] Using language suggested by IPA.
[9] The language of which has been reviewed with the IPA and ICC staffs.
[10] See detail within Coles Together contemporaneous comment.

purchase agreement (PPA) under those provisions, and by this comment, urges the IPA to revise its Draft 2019 Procurement Plan to conform to the statutory requirements.

MPE's forthcoming bid will benefit from improved economics over the bid previously submitted for the 2015 IPA Procurement Plan. At that time, even with a pending, existing power purchase agreement (PPA) awarded to FutureGen, this earlier bid fit well below the statutory rate cap necessary for IPA and ICC issuance of a power purchase agreement for the relatively modest ~80 MW scale of the proposed plant. Recent technical process improvements, combined with the financial benefits of Federal "45 Q" tax credits[11], will further reduce the forthcoming bid even farther beneath the rate cap.

IPA has stated that the Act, per its interpretation, does not mandate that the IPA include a CCT facility other than the statutorily defined "Initial Clean Coal Facility and the Retrofit Facility", neither of which remain in existence, or possible. The IPA further argued that if a CCT plant is included in the procurement plan, it is possible that the 2.0125% rate cap might be exceeded.

MPE strongly disagrees with this position for the following reasons:

1. Excluding future, feasible CCT facilities that satisfy the statutory definition of clean coal, other than the "initial CCT facility" and a "retrofit CCT facility" will, *ipso facto*, exclude all future CCT plants from being built and renders impossible achieving the legislated objective of 25% of Illinois electricity from clean coal by 2025.
2. The only CCT facility IPA included in its procurement planning, (and awarded a power purchase agreement) since 2015 was FutureGen2.0, now abandoned, which leaves even more room, under pertinent rate cap provisions, for additional clean coal facilities.
3. Absent the opportunity for other CCT facilities to be included in IPA procurement, it is impossible to make further progress and achieve the legislative goal that 25% electricity from CCT be achieved by 2025 – a result that illustrates how the IPA's interpretation of the clean coal procurement requirements contravenes the clear legislative intent of the relevant statutes.

Therefore, it is appropriate for parties interested in:

- Statutory and administrative compliance; and
- the advancement of clean coal technology in Illinois; and
- the new jobs associated with the construction and operation of new CCT facilities in Illinois;
- the jobs to be retained in the coal industry in Illinois through the IPA's implementation of the Act and its advancement of CCT; and
- new jobs that will be created by the enhanced oil recovery (EOR) activities that will come with the MPE project,

to voice their objection to the IPA Procurement Plan to the ICC and support the mandate that the IPA include opportunities for proposed CCT facilities such as the MPE Plant, as well as any other CCT facility

[11] 26 U.S. Code § 45Q - Credit for carbon dioxide sequestration

to bid, **on a competitive basis,** to the IPA, in fulfillment of its mandate to include CCT as part of the Illinois energy portfolio.

Finally, as a corporate entity that has spent considerable resources (over $2 million dollars) over at least four years in reliance on the cited (and clear) Illinois statutory mandates, should the IPA decline to issue procurement proposals that include opportunities for a clean coal component, MPE requests that the State (IPA and or ICC) issue a clear statement to that effect.

Respectfully submitted,

/s/

Paul D. Gandola, President
Mattoon Power Enterprises LLC
19443 Lorain Road
Fairview Park, Ohio 44126
440-725-0599
pgandola@ix.netcom.com

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