STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Power Agency	**:**	
	:	
Petition for Approval of the 2023 IPA Electricity Procurement Plan Pursuant to Section 16-111.5(d)(4) of the Public Utilities Act.	**: : : :**	**22-0590**

ORDER

December 15, 2022

TABLE OF CONTENTS

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Power Agency	:	
	:	
Petition for Approval of the 2023 IPA Electricity Procurement Plan Pursuant to Section 16-111.5(d)(4) of the Public Utilities Act.	: : : :	**22-0590**

ORDER

By the Commission:

I. INTRODUCTION

Section 16-111.5(d)(2) of the Public Utilities Act ("Act") requires the Illinois Power Agency ("IPA" or "Agency") to prepare a power procurement plan ("Draft Plan"). The IPA's Draft Plan was posted on the IPA and Illinois Commerce Commission ("Commission") websites, pursuant to Section 16-111.5(d)(2) of the Act. 220 ILCS 5/16-111.5(d)(2). Comments on the Draft Plan were submitted to the IPA for its review. The Act requires the IPA to make revisions to the Draft Plan based on the submitted comments and then formally file a revised plan with the Commission.

On September 28, 2022, the IPA filed with the Commission its 2023 Power Procurement Plan ("Plan" or "2023 Plan"), initiating this proceeding. Among other things, the purpose of the 2023 Plan is to secure electricity commodity and associated transmission services to meet the needs of eligible retail customers in the service areas of Commonwealth Edison Company ("ComEd"), Ameren Illinois Company d/b/a Ameren Illinois ("Ameren"), and MidAmerican Energy Company ("MidAmerican").

Section 16-111.5(d)(3) of the Act provides that, within five days of the filing of a procurement plan, any objections to it must be filed with the Commission. The same subsection also provides that the Commission shall enter an order approving or modifying the procurement plan within 90 days after the filing of the plan. 220 ILCS 5/16-111.5(d)(3). The 2023 Plan was filed on September 28, 2022; thus, the deadline is December 27, 2022. Pursuant to Section 16-111.5(d)(4) of the Act, the Commission shall approve the procurement plan, including the load forecasts used in the plan, "if the Commission determines that 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." 220 ILCS 5/16-111.5(d)(4).

The Administrative Law Judges ("ALJs") granted Petitions to Intervene for Ameren and ComEd. Staff of the Commission ("Staff") also participated in this proceeding. On October 3, 2022, Ameren filed verified Comments and ComEd filed verified Objections to the IPA's 2023 Plan. A hearing in this matter was determined not to be necessary and the IPA filed its Response on October 17, 2022. ComEd and Staff filed Replies on October 26, 2022.

A Proposed Order was served on November 14, 2022. Staff, the IPA, and ComEd filed Briefs on Exceptions on November 21, 2022. Staff and the IPA filed Reply Briefs on Exceptions on December 1, 2022.

II. THE 2023 PLAN

This is the fifteenth electricity procurement plan prepared by the IPA under the authority granted to it under the Act and Illinois Power Agency Act ("IPA Act"). Chapter 2 of this Plan describes the specific legislative authority and requirements to be included in the plan, including those set forth in previous orders of the Commission.

The 2023 Plan addresses the provision of electricity for the "eligible retail customers" of Ameren, ComEd, and MidAmerican. Following MidAmerican's participation for its seventh time in the 2022 IPA Power Procurement Plan ("2022 Plan"), MidAmerican has again elected to have the IPA procure power and energy for a portion of its eligible Illinois customers through the 2023 Plan.

As defined in Section 16-111.5(a) of the Act, "eligible retail customers" are, for Ameren and ComEd, generally residential and small commercial fixed price customers who have not chosen service from an alternate supplier. For MidAmerican, eligible retail customers include residential, commercial, industrial, street lighting, and public authority customers that purchase power and energy from MidAmerican under fixed-price bundled service tariffs. The 2023 Plan considers a 5-year planning horizon that begins with the 2023-2024 Delivery Year and lasts through the 2027-2028 Delivery Year.

The 2022 Plan, as approved by the Commission in Docket No. 21-0717, called for the energy requirements for Ameren, ComEd, and MidAmerican to be procured by the IPA through two block energy procurements (Spring 2022 and Fall 2022). In addition, the 2022 Plan included two capacity procurements for Ameren (Spring 2022 and Fall 2022). The 2022 Plan also recommended a continuation of the energy procurement strategies proposed in the 2021 IPA Power Procurement Plan ("2021 Plan"). An unusually high level of price volatility leading up to, and on the day of, the spring procurement resulted in not all blocks being filled, and the Agency held a supplemental procurement to procure additional blocks for the summer months.

In response to these changes in energy markets, the IPA conducted a stakeholder feedback process in June and July 2022 to assist the IPA in considering what changes could be made to its procurement approach for the draft 2023 Plan. Based on the feedback received, the IPA proposes to continue the energy procurement schedule and hedging approach utilized in the 2022 Plan for the Agency's 2023 Plan with three changes:

- First, the IPA proposes to increase the hedging percentage target for the summer months in procurements prior to the final spring procurement event in order to reduce the remaining volumes to be procured for the prompt summer months;

- Second, the IPA proposes to change the final procurement hedging targets for ComEd from 100% (106% for July and August) to 75% to recognize the value that Carbon Mitigation Credits ("CMCs") can provide to eligible retail customers in offsetting energy price changes, while not fully exposing eligible retail customers with to certain risks associated with fully relying on CMCs as a hedge outside of the IPA-procured portfolio;
- Third, the IPA proposes to a) increase the amount of capacity hedged for Ameren from 50% to 75%, and b) change from annual Zonal Resource Credit procurements to seasonal Zonal Resource Credits ("ZRCs") procurements to comply with the recently approved changes to the Midcontinent Independent System Operator ("MISO") capacity market construct.

Additionally, after the Federal Energy Regulatory Commission's ("FERC") decision on August 31, 2021 to approve revisions to the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff to establish a seasonal resource adequacy construct, the IPA, Staff, the Commission's Procurement Monitor, and Ameren reached a consensus to cancel the Fall 2022 capacity procurement because of FERC's elimination of an annual capacity product and conversion to a seasonal product. This consensus was reached pursuant to the cancellation process outlined in Action Item #3 of the 2022 Plan. As discussed in Chapter 7 of this Plan, the IPA proposes an early 2023 procurement to make up for the capacity not procured for the 2023-2024 Delivery Year.

The 2023 Plan proposes to continue using the risk management and procurement strategy that the IPA has historically utilized: hedging load by procuring on and off-peak blocks of forward energy in a three-year laddered approach. The IPA believes the continuation of its tested and proven risk management strategy is the most prudent and reasonable approach, and the approach most likely to meet its statutorily mandated objective to "[d]evelop electricity procurement plans to 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." 20 ILCS 3855/1-20(a)(1).

The IPA's energy hedging strategy for the 2023 Procurement Plan is consistent with the strategy used for the 2022 Plan. That strategy involves the procurement of hedges in 2023 to meet a portion of anticipated eligible procurement events, one in the spring and the second in the fall. One change that is proposed is to decrease the amount of summer blocks procured in the prompt Spring procurement by increasing the hedging percentages for prior procurements. Details of this procurement strategy can be found in Section 7.1.

As explained in more detail in Section 5.2.2.1, MISO plans to implement a seasonal resource adequacy construct starting with the 2023-2024 Delivery Year. Under the seasonal resource adequacy construct, capacity in the MISO Planning Resource Auction ("PRA") and in the IPA's bilateral procurements will be procured for each of four distinct seasons: summer, fall, winter, and spring.

For Ameren, for the 2023-2024 Delivery Year, the IPA recommends holding a procurement in early 2023 to make up for the capacity not procured in the cancelled Fall

2022 capacity procurement and any additional capacity that needs to be made up from previously held procurements where Ameren and the winning bidders from those procurements cannot come to agreement on how to convert annual ZRCs into seasonal ZRCs. The target of this procurement is 50% of the forecast capacity needs of Ameren eligible retail customers, as was the target in the 2022 Plan.

For the 2024-2025 Delivery Year, the IPA recommends continuing the strategy of procuring a portion of Ameren's forecasted capacity requirements in bilateral transactions and the remaining balance through the MISO PRA. As also explained in more detail in Section 5.2.2.2.4 and Section 7.2.1.2, the IPA is proposing to increase the amount of capacity it procures in bilateral transactions from 50% to 75% for the 2024-2025 Delivery Year. For the 2025-2026 Delivery Year, the IPA recommends procuring up to 25% of its forecasted capacity requirements in bilateral transactions in 2023, with the balance of forecast capacity requirement to be determined in the 2024 Power Procurement Plan ("2024 Plan").

For ComEd, consistent with the strategy adopted in prior plans, the IPA proposes that its capacity requirements be secured by ComEd through the PJM Interconnection, LLC ("PJM") Reliability Pricing Model ("RPM") process. Following the approach taken in the 2022 Plan, the IPA recommends that MidAmerican's forecasted capacity deficit be secured by MidAmerican through the annual MISO PRA.

In addition to the various proposals above, the IPA recommends that ancillary services, load balancing services, and transmission services be purchased by Ameren and MidAmerican from the MISO marketplace, and by ComEd from the PJM markets.

III. OBJECTIONS

A. Chapter 2: Legislative/Regulatory Requirements of the 2023 Plan

1. ComEd's Position

ComEd contends the 2023 Plan should be revised to better align with the environmentally sustainable electric service requirement and the State's clean energy goals. As highlighted in the opening pages of the 2023 Plan, the IPA is statutorily required to "[d]evelop electricity procurement plans to 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." 20 ILCS 3855/1-20(a)(1)) (emphasis added). In its Comments on the Draft Plan, ComEd recommended that the IPA give full effect to the statutory requirement to procure "environmentally sustainable" electricity, and provided two exemplar ways that this could be accomplished in this Plan: (i) requiring bidders to include the fuel mix of the power that is the subject of their bid and (ii) adjusting bids from carbon-emitting resources to reflect the cost of carbon. Under this approach, clean energy resources could be selected when their bid price is at or below the those of carbon-emitting resources bid prices (inclusive of the cost of carbon).

ComEd states that because this is the first Electricity Procurement Plan developed by the IPA following Public Act ("P.A.") 102-0662's enactment, it provides a meaningful opportunity to ensure that the energy products procured under the Plan complement and support Illinois' clean energy goals. The General Assembly has long articulated a State policy that emphasizes the procurement of "environmentally sustainable electric service," which is also reflected in the legal standard applicable to the IPA's development of electricity procurement plans. *See*, *e.g*., 20 ILCS 3855/1-5(1), (5), (A); 220 ILCS 5/16-101A(d); *see also* 20 ILCS 3855/1-20(a)(1). Correspondingly, the Act also directs the Commission to approve electricity procurement plans only "if the Commission determines that 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." 220 ILCS 5/16-111.5(d)(4) (emphasis added). ComEd contends that given P.A. 102-0662's new mandate to "rapidly transition to 100% clean energy by 2050," it is critical that the requirements for "environmentally sustainable electric service" are faithfully implemented in each electricity procurement plan. *See* 20 ILCS 3855/1-5(1.5). Indeed, the increasing severity of climate change coupled with recent limitations on federal action to combat carbon emissions bring increased urgency and clarity to the need for environmentally sustainable energy.

ComEd adds that while the IPA must address the State's clean energy goals directly through the procurement of renewable energy credits under its long-term renewable resources procurement plan, zero emission credits ("ZECs") under is Zero Emissions Standard Plan, and carbon mitigation credits ("CMCs") under its CMC Plan, the Commission's standard for approval of this 2023 Plan separately requires the provision of environmentally sustainable service under the Plan. ComEd accordingly recommends a "both/and" approach that ensures electricity procurement serves as part of the solution rather than remains siloed in a way that leads to inadvertently perpetuating carbon emissions through ongoing support of carbon-emitting resources to supply Illinoisans' electricity.

ComEd states one relatively simple and straightforward means of understanding the energy products to be procured – and ensuring the Plan drives toward environmentally sustainable electric service – is requiring that bidders include the fuel mix of the power that is the subject of the bid being submitted. Indeed, in the absence of this information, it is unclear how the Commission could determine that the Plan complies with the applicable standard of review, which requires "environmentally sustainable electric service." ComEd is unaware of any information suggesting that the provision of this additional piece of information as part of a bid submission would prove unduly burdensome for either the IPA or bidders.

In addition, ComEd states that to the extent an electricity procurement plan includes electricity procured from carbon-emitting resources, the associated cost of carbon value could be calculated and included to ensure that the actual full cost of procuring carbon-emitting resources is transparently identified. The electricity procurement plans could analyze options to mitigate or avoid procurement of electricity from carbon-emitting resources and propose procurement of clean energy products when their cost is equal to or below the cost of a carbon-emitting resource (inclusive of the cost of carbon value). Those clean energy resources that are procured should also be required to include the associated clean energy attribute, which would be retired by the contracting utility. ComEd contends this will ensure that the electricity sourced from clean generation is truly clean.

As to the calculation of the cost of carbon, ComEd opines that one simple solution already reflected in Illinois law is the Social Cost of Carbon value used in the calculation of ZEC prices. This value is described in Section 1-75(d-5) of the IPA Act, as well as in the IPA's Zero Emission Standard Plan, as follows:

> In the legislative findings to [P.A.] 99-0906, the General Assembly found that "that the Social Cost of Carbon is an appropriate valuation of the environmental benefits provided by zero emission facilities, provided that the valuation is subject to a price adjustment that can reduce the price for zero emission credits below the Social Cost of Carbon." Hence, the pricing mechanism used in the Zero Emission Standard begins with the Social Cost of Carbon as a baseline price for the environmental attributes represented by a [ZEC].
>
> The [IPA] Act specifies that the Social Cost of Carbon is $16.50/MWh. As explained in the [IPA] Act, this Social Cost of Carbon price reflects the social cost of carbon dioxide emissions represented by the U.S. Interagency Working Group on Social Cost of Greenhouse Gases as calculated in the August 2016 Technical Update. The Social Cost of Carbon price specified in the [IPA] Act was apparently calculated based on converting the cost per metric ton to $/MWh and using a 3% discount rate, and further adjusting for inflation for each delivery year. The cost per metric ton of carbon dioxide was converted to $16.50/MWh based on state-wide carbon dioxide emissions measured in pounds/MWh for the applicable year. The Social Cost of Carbon price is not fixed, however; the [IPA] Act further provides that beginning with the delivery year commencing June 1, 2023, the price per MWh shall increase by $1/MWh, and continue to increase by an additional $1/MWh each delivery year thereafter.

IPA Zero Emission Standard Procurement Plan at 22 (Oct. 31, 2017). ComEd accordingly recommends that this same Social Cost of Carbon value, with applicable escalators, could be used to adjust the bid prices of carbon-emitting resources in the electricity procurements conducted under the 2023 Plan.

Given the local and global urgency in addressing the climate crisis, ComEd urges the Commission to adopt these or similar measures. It is critical that each electricity procurement plan furnish the Commission with the information required to (i) satisfy the statutory standard on the issue of environmental sustainability and (ii) enable the Commission to make express findings regarding the extent to which a given electricity plan advances environmentally sustainable electric service or promotes further dependence on carbon-emitting resources. P.A. 102-0662's call to rapidly transition to 100% clean energy requires that Section 16-111.5's prioritization of environmental sustainability be given full effect.

ComEd notes in its Reply, it appreciates the IPA's willingness to adopt the proposal requiring bidders to include the fuel mix of the power that is the subject of their bid, and understands the IPA's reluctance to move forward at this time with the ComEd's second proposal to adjust bids from carbon-emitting resources to reflect the cost of carbon. Below, ComEd offers an interim "bridge" solution that would ensure the information gleaned from the fuel mix disclosures is properly published and fully considered by regulators and stakeholders.

Because the IPA interprets current provisions of the law to preclude the IPA from pursuing a cost-of-carbon adjustment, the IPA indicated in its Response that it prefers a legislative solution to the issue: "If the legislature decides that additional elements should be added to the electricity procurement plan, the IPA will properly implement them as directed by statute." IPA Resp. at 7-8. While ComEd does not share the IPA's interpretation of the statute, ComEd states it will not press the issue further in this proceeding in an effort to narrow the issues. Even so, this docket presents an opportunity to ensure that relevant information is gathered and published so that it can be considered by policymakers as they refine and build upon the clean energy vision set forth P.A. 102-0662.

Requiring that bidders disclose the fuel mix underlying their bids provides the State with new information regarding the extent to which the existing electricity procurement process supports the clean energy transition. ComEd appreciates the IPA's adoption of this proposal, and additionally recommends two complementary proposals to ensure that legislators, regulators, and interested stakeholders can fully access and analyze the import of this information as they craft future legislation and policy: (1) ComEd recommends the fuel mix of each winning bidder should be set forth in the Commission's Public Notice that approves the procurement results. The Public Notice should also include the overall weighted average of the fuel mix based on the weighted average of the winning bids; (2) ComEd recommends the Commission should also convene a workshop process (or working group) to consider the fuel mix information and whether additional action should be taken to align the electricity procurement process with the State's clean energy goals. If additional action is warranted, the workshop process should develop and propose potential solutions, including those that can be implemented under existing law and those that could be implemented through future legislation. The workshop process should culminate in a report submitted to the Commission no later than 30 days prior to the date on which the IPA publishes the draft of its 2024 Plan.

ComEd notes the climate crisis – and Illinois' efforts to mitigate its deleterious effects – require urgent attention and action. ComEd recommends that the Commission adopt the agreed-to proposal to require that bidders disclose their fuel mix, as well as adopt the companion proposals to publish the information and hold a workshop process to properly consider the information and recommend solutions.

2. IPA's Position

The IPA notes that by Illinois law, the IPA must select electricity procurement bids "solely on the basis of price." P.A. 102-0662 did not provide any change to Illinois law empowering the IPA to select electricity procurement bids based on the carbon intensity of generation, and in doing so would only increase prices paid by eligible retail customers—thus failing to procure the "lowest total cost over time, taking into account any benefits of price stability." 20 ILCS 3855/1-75(a).

The IPA Act directs the Agency to "[d]evelop electricity procurement plans to ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time" for the three large utilities in Illinois (MidAmerican, Ameren, and ComEd). 20 ILCS 3855/1-20(a)(1). That an electricity procurement plan must be developed "in accordance with the requirements of Section 16-111.5 of the Public Utilities Act." 20 ILCS 3855/1-75(a). The Act lays out detailed requirements for the content of the electricity procurement plan, including "the portfolio of demand-response and power and energy products to be procured," "hourly data representing a high-load, low-load, and expected-load scenario," and "the proposed mix and selection of standard wholesale products for which contracts will be executed" that year, among other required analyses and terms. 220 ILCS 5/16-111.5(b)(3), (d)(1). The statute provides the Agency with specific, thorough instructions for the development of the electricity procurement plan, and the IPA has fulfilled those directives annually for many years, with approval from the Commission. Given that this statutory language has not changed, the Agency has taken the same approach in the development of the 2023 Plan now before the Commission.

Turning to ComEd's argument that bids should instead now be taken out of price order, it is a long-standing, "well-established principle" of statutory construction that "where terms used in [a] statute have acquired a settled meaning through judicial construction and are retained in subsequent amendments or re-enactments of the statute, they are to be understood and interpreted in the same sense theretofore attributed to them by the court unless a contrary intention of the legislature is made clear." *In re Marriage of O'Neill*, 138 Ill. 2d 487, 495 (1990) (quoting *People ex rel. Nelson v. Wiersema State Bank*, 361 Ill. 75, 78-79 (1935)). In essence, ComEd proposes to read a pre-existing provision of the IPA Act as requiring the IPA to *add* new elements to the 2023 Plan based on changes *elsewhere* in the law. The IPA notes that in crafting P.A. 102-0662, the legislature carefully reviewed the Act, including the IPA Act, and amended the portions it deemed necessary to achieve its policy goals, such as permitting the electricity procurement plan to include resources provided through high voltage direct current converter stations. 220 ILCS 5/16-111.5(b)(3)(vi). Yet the legislature did not change the provision directing the procurement of "environmentally sustainable electric service" despite knowing that prior Plans did not include an adjustment for the social cost of carbon—and were repeatedly approved by the Commission under that standard. Illinois courts have long recognized that Commission decisions "take on significance when they are coupled with legislative inaction," especially where "[t]he legislature is well aware of the rulings on this point, has revised the Public Utilities Act [] and [] amended it numerous times, without changing the language" at issue. *Citizens for a Better Env't v. Ill. Commerce Comm'n*, 103 Ill. App. 3d 133, 140 (1981) (quoting *Ill. Bell Tel. Co. v. Ill. Commerce Comm'n*, 414 Ill. 275, 279 (1953)).

The IPA states it has developed Electricity Procurement Plans for over a decade without incorporating any adjustment for the cost of carbon. The IPA adds the legislature has made numerous updates to the Act through P.A. 102-0662, but chose not to change the very provision that ComEd now points to as justifying its call for the IPA to change its implementation of the law. *See*, *e.g*., 220 ILCS 5/4-604; 220 ILCS 5/16-105.5; 220 ILCS 5/16-111.5(a), (b)(5)(ii)(D). The IPA contends that if the legislature wanted the IPA to begin integrating cost-of-carbon adjustments into the procurement, it would have said so.

Relying on other changes in the statute to support ComEd's recommendation violates basic statutory interpretation principles by ignoring the legislative choice to not change the actual provision at issue. The IPA asserts the Commission should not use administrative authority to set aside the General Assembly's decision to not amend the relevant language of the Act.

The IPA argues that adding a new cost-of-carbon bid price adjustment could undermine achievement of the other policy goals: that the IPA should procure "adequate, reliable, *affordable*, efficient, and environmentally sustainable electric service *at the lowest total cost over time*, taking into account any benefits of price stability." 220 ILCS 5/16-111.5(d)(4) (emphasis added). Including a cost-of-carbon adjustment in bid prices would drive up energy costs for consumers, as higher-priced bids would receive preference in establishing an energy portfolio for eligible retail customers. For reference, the below table from the 2023 Electricity Procurement Plan shows the utility price to compare and representative Alternative Retail Electric Supplier ("ARES") prices available to eligible utility customers.

Utility Territory	**Utility Price to Compare (¢/kWh)**	**Representative ARES Price (¢/kWh)**
Ameren Illinois (Rate Zone I)	10.63	17.13
Ameren Illinois (Rate Zone II)	10.63	17.57
Ameren Illinois (Rate Zone III)	10.63	17.13
ComEd	11.05	12.66

The IPA states the social cost of carbon adjustment proposed by ComEd of $16.50/MWh would result in higher-priced bids being selected in competitive procurement processes, as a $60/MWh bid from a nuclear facility would presumably then have a price advantage over a $50/MWh bid from a natural gas facility. This approach could increase utility rates by over 15%, close to eliminating the price advantage that default supply has over ARES competitive service and potentially spur more customers to migrate to ARES service. Such migration could throw a wrench into the Agency's hedging strategy, which is based in part on projections of switch rates for customers from default supply to ARES service.

ComEd also suggests requiring clean energy bids to include the clean energy attribute associated with that energy – but, under express statutory authority found throughout the IPA Act, the IPA already purchases clean energy attributes on behalf of all retail customers through multiple separate procurements specifically designed by the legislature to incentivize non-carbon-emitting sources. To do so on behalf of only eligible retail customers in the absence of such express authority would be inconsistent with Illinois law. Furthermore, the IPA notes most of the clean energy attributes associated with Illinois nuclear generation have been purchased as ZECs or CMCs, making them unavailable for the electricity procurement. Similarly, the Renewable Energy Credits ("RECs") associated with renewable energy sources have either been retired by the utilities to comply with the state Renewable Portfolio Standard ("RPS") or are likely under contract with large commercial entities that must meet their own internal clean energy targets. Incorporating an additional preference for clean energy sources that might also be participating in the IPA's Indexed REC Procurement, in the Adjustable Block Program, or in the Self-Direct option under P.A. 102-0662 would not only risk double counting of environmental attributes, it would undermine the intentional choice of the legislature to separate the procurement of environmental attributes from the procurement of energy.

The IPA states it takes very seriously its legislative mandate to increase the percentage of clean energy supply in Illinois, and fully appreciates the gravity and urgency of the climate crisis. The IPA appreciates ComEd's concern for the environmental impacts of the electricity procured through the IPA competitive procurements, and upon further consideration can commit to requiring that bidders divulge the fuel mix of the sources underlying their bids. However, the Agency opposes adding significant changes to the electricity procurement plan where it does not have authority to do so, as is the case with a social cost of carbon adjustment. If the legislature decides that additional elements should be added to the electricity procurement plan, the IPA will properly implement them as directed by statute.

In its Brief on Exceptions, the IPA notes that while it does not object to the concept of workshops and/or working groups to consider the fuel mix information and whether additional action should be taken to align the electricity procurement process with the State's clean energy goals, the IPA does have concerns about the workshop participants' ability to effectively tackle the issues with the limited information available on fuel mix, and whether a workshop process which culminates in a report to the Commission is sufficient to address barriers.

First, and as noted above, the IPA questions what fuel mix information could be considered through the workshop process in light of the limitations of subsection (h) of Section 16-111.5 of the Act. Should the Commission find that 16-111.5(h) requires fuel mix disclosures to be kept confidential, there would be no publicly available information to consider at these workshops. Even if such disclosure were permissible, the IPA notes that a bidder may not know the fuel mix of the energy it will ultimately deliver at the time of its bid. For example, an energy trading firm may submit a bid expecting to purchase power from a coal resource in the future but instead finds a more affordable gas resource at the time that it purchases energy to meet its delivery requirement; similarly, a nuclear generator may go offline for maintenance and need to purchase other power resources to meet its delivery obligations. As a result, the actual fuel mix of delivered energy may differ from the expected fuel mix at the time of bidding into the IPA's procurement. Any discussion of the State's advancement of its clean energy goals requires data reflecting the actual energy supplied, not what was intended to be supplied, making the aggregated fuel mix post-delivery, rather than expected at the time that procurement results are approved, the most relevant data. Furthermore, the release of the overall weighted average of the fuel mix based on the weighted average of the winning bids, combined with the release of the fuel mix of each winning bidder and the statutorily-mandated public disclosures might allow winning bidders to analyze the data provided and gain additional insight into the costs of competitors' resources which were bid into the procurement. The IPA recommends that the workshops focus on potential methods for disclosing aggregated information in a manner that would check the ability of winning bidders to determine price information from other bidders.

Second, the adoption of the workshop recommendation – and the development of a report to the Commission no later than 30 days prior to the IPA's publication of the draft 2024 Electricity Plan – appears to be inconsistent with the notion that a change in the statute is required for the Agency to consider fuel mix in its electricity procurements. Assuming the report will address the need for legislative action, the IPA recommends the Commission make the report publicly available. The IPA assumes that the timing of the report recommended by ComEd is intended to allow for the Agency to incorporate changes into its draft 2024 Electricity Plan; this recommendation will also allow the Agency the opportunity to review the report for consideration prior to publication of the draft 2024 Plan.

The IPA reiterates that it does not object to the Commission convening workshops to consider whether additional action should be taken to align the electricity procurement process with the State's clean energy goals. The Agency does, however, request that the Commission provide additional guidelines detailing the information that will be considered by the workshop participants, the party responsible for the report that would be presented to the Commission, whether the report would be publicly available, and any other additional information that may be useful to workshop participants.

3. Staff's Position

Staff supports the IPA's legal argument that ComEd's proposal would have bids be taken out of price order, and that bids would not be selected solely on the basis of price, which would be contrary to Section 16-111.5(e)(2) of the Act.

Staff also agrees with the IPA's argument that ComEd proposes to read a pre-existing provision of the IPA Act as requiring the IPA add new elements of to the 2023 Plan based on changes elsewhere in the law, and that if the legislature wanted the IPA to begin integrating cost of-carbon adjustments into the procurement, it would have said so.

Staff further agrees the Commission should not use administrative authority to set aside the General Assembly's decision to not amend the relevant language of the Act.

Staff notes in its Brief on Exceptions that it agrees that the generation fuel mix of suppliers is potentially interesting and important information. However, ComEd's proposed workshop requirement requests more than a method to gather the information. It also asks that the workshops develop "potential solutions" that can be implemented under the current law and "those that could be implemented through future legislation." Staff asserts that there are three reasons that weigh against requiring these proposed workshops.

First, as the IPA and Staff have argued, the law as it stands today does not provide a means by which the IPA can use that information to adjust for the cost-of-carbon in power procurement. The IPA auctions that procure power for Ameren, ComEd, and MidAmerican have been developed to purchase power selected "solely on the basis of price" (220 ILCS 5/16-111.5(e)(2)) at "the lowest total cost over time, taking into account any benefits of price stability" (220 ILCS 5/16-111.5(d)(4)). It is unclear how workshops can find a reasonable adjustment to the auctions without additional legislation.

Two, nothing prevents any party to this proceeding from proposing amendments to future procurement plans or Illinois statutes. If no workshops are held, there is no barrier to any stakeholder developing amendments to the IPA's energy procurement plans.

Finally, P.A. 102-0662 has already imposed multiple requirements on the Commission and its Staff, as well as utilities and other stakeholders. It does not seem likely that requiring Staff to lead workshops on an issue which is inconsistent with the existing law would be the best use of Staff resources.

Accordingly, Staff does not support ComEd's workshop proposal nor the IPA's proposed clarification of the scope of the proposed workshop.

4. Commission Analysis and Conclusion

Regarding ComEd's proposal to require bidders to disclose the fuel mix of the sources underlying their bids, the Commission notes the IPA is not opposed and agrees to request the submission of this information from bidders under the 2023 Plan. Therefore, ComEd's proposal is adopted. ComEd's subsequent proposal to have the winning bid's fuel mix published in the Commission's Public Notice approving the procurement results conflicts with the confidentiality provisions of Section 16-111.5(h) and is not adopted.

Regarding ComEd's proposal to adjust bids from carbon-emitting resources to reflect the cost of carbon, the Commission agrees with the IPA and Staff that the Act, even considering recent amendments by P.A. 102-0662, does not provide a means in which the IPA may integrate cost-of-carbon adjustments into the procurement. Moreover, the Commission also finds ComEd's proposal presents an unreasonable risk that could result in the increase of the cost of electricity that would negatively impact ratepayers and disrupt the Agency's hedging strategy. The Commission declines to take such a risk at this time without more definitive information. Therefore, ComEd's proposal is not adopted.

The Commission agrees with Staff that without changes to legislation, the initiation of formal workshops to collaborate in an effort to further advance the State's policy goals is premature at this time. Although premature, the Commission encourages the parties to continue informal discussions as these issues are raised in future legislative forums. Therefore, ComEd's workshop proposal is not adopted.

B. Chapter 3: Load Forecast

1. Ameren's Position

Ameren states the Company submitted its five-year forecast to the IPA on July 15, 2022. The IPA used this information to develop its Plan, and in doing so, inadvertently used different percentages than what was provided by the Company. Ameren submits the corrected percentages for the following sections below:

Section 3.2.3 Switching:

"Residential and small commercial switching rates under the low switching and a corresponding high load scenario are forecasted to be ~~46%~~ 20% and ~~54%~~ 58%, respectively, in May 2023, ~~39%~~ 13% and ~~47%~~ 51%, respectively, in May 2024, and 0% and 22%, respectively, by the end of the planning horizon."

Section 3.5.4 Municipal Aggregation and Individual Switching:

"In its base case, Ameren Illinois projects that approximately ~~58%~~ 39% of potentially eligible retail customer load106 will have switched away from Ameren Illinois default fixed price tariff service by the end of the 2022-2023 Delivery Year."

Section 3.5.4 Footnote 107:

Ameren Illinois's July 15, 2022 Load Forecast submitted to the IPA also contained three scenarios within its expected load forecast related to potential future changes in the level of switching due to municipal aggregation. These included a low scenario where no municipal aggregation load expiring in December 2022 or January 2023 comes back to Ameren Illinois default service; a mid scenario where half of that municipal aggregation load returns to Ameren Illinois default service (~~~1~~10% change); and a high scenario where all of that municipal aggregation load returns to default service (~~~2~~20% change). The Agency is including the mid scenario for this plan as reflected in Figure 3-4) and those assumptions will be used for the Fall 2022 procurement. For the Spring 2023 procurement the March 15, 2023 will be used for actual procurement volumes and will reflect what has actually occurred in terms of the continuation of municipal aggregation contracts.

2. IPA's Position

The IPA reviewed the technical corrections to the 2023 Plan raised by Ameren and agrees that inadvertent errors in the 2023 Plan resulted in the listing of incorrect percentages in Sections 3.2.3, 3.5.4, and footnote 107. The IPA accepts these changes and will incorporate them into the final version of the 2023 Plan, which will be filed in accordance with the Commission's Final Order in this proceeding.

3. Commission Analysis and Conclusion

The Commission notes the IPA agrees with Ameren's technical corrections and will incorporate them into the final version of the 2023 Plan. Therefore, Ameren's recommended corrections to Sections 3.2.3, 3.5.4, and footnote 107 are adopted.

C. Chapter 6: Managing Supply Risks

1. Ameren's Position

Ameren notes that the IPA acknowledges the unusually high level of price volatility leading up to the Spring 2022 procurement. 2023 Plan at 1. This volatility resulted in a supplemental procurement to procure additional blocks of energy for summer months not previously filled in the initial Spring 2022 procurement. *Id.* After conducting a stakeholder feedback process, the IPA proposed to change the hedging percentage strategies from prior years. Specifically, the IPA, in its Plan, proposes to increase the hedging percentage target for the summer months in procurements prior to the final spring procurement event in order to reduce the remaining volumes to be procured for the prompt summer months. *Id.*

Ameren agrees with the IPA that additional hedging for the summer months in procurements prior to the final prompt procurement will help reduce price volatility. Moreover, Ameren agrees with the IPA's proposal to increase the summer hedge position up to 75% prior to the prompt summer final procurement. However, Ameren contends the Plan should go further to ensure a reduction in price volatility for eligible retail customers and encourages the IPA to also increase their non-summer (September – May) hedging goals. Specifically, Ameren proposes the following changes to hedging goals for the non-summer months:

Prompt Year (2023-2024)

- Spring 2023 event will procure 100% of September and 75% of October-May
- Fall 2023 event will procure the remaining non-summer to achieve 100% hedging

Prompt Year +1 (2024-2025)

- Spring 2023 event will procure the quantity necessary to achieve ~~37.5%~~ 45% hedging for September – May.
- Fall 2023 event will procure the quantity necessary to achieve ~~50%~~ 60% hedging for September - May

Prompt Year +2 (2025 – 2026)

- Spring 2023 event will procure the quantity necessary to achieve ~~12.5%~~ 15% hedging for September - May
- Fall 2023 event will procure the quantity necessary to achieve ~~25%~~ 30% hedging for September - May

Ameren explains energy price volatility is not specific to only the summer months and the non-summer portion of hedging goals needs to be addressed, as well. This issue is clearly illustrated in the MISO Indiana Hub's Day-Ahead price for prompt non-summer (September – May) which saw an increase in the around the clock price from $29.31 to $84.62 from April 2021 to April 2022. This is a significant increase in price, which an increased hedging goal percentage in future procurements could help mitigate for future price increases.

Should the Commission determine that the IPA proposed hedging percentage goals for the non-summer months creates undue risk for Ameren's eligible retail customers, Ameren recommends the Commission order the IPA to increase the non-summer month hedging goals for Ameren. Therefore, Ameren recommends that Ameren's non-summer months hedging goals be increased to mitigate future price swings for its customers.

2. ComEd's Position

ComEd argues the Plan should be revised to fully leverage the hedging benefit offered by the CMC Contracts. ComEd states that to address the cost and price stability considerations, as required by the Act, each IPA electricity procurement plan devotes considerable attention to managing supply risks, which include three broad categories: (i) volume (risks associated with identifying the volume and timing of energy delivery to meet demand; (ii) price (uncertainty in the cost of energy and costs associated with energy delivery in real time); and (iii) hedging imperfections (mismatches between the types of available hedge products and the nature of customer demand). Plan at 67.

ComEd notes that as suggested by item (iii), one of the principal tools that the IPA has employed over the years to manage price risk is "hedging," which is a risk mitigation strategy designed to moderate the harmful effects of price volatility. This is accomplished by procuring an interest in another (secondary or derivative) product or position that has an offsetting effect when the price changes on the primary product or position. Because P.A. 102-0662 mandated a new CMC procurement that requires payments from or to ComEd retail customers based on movements in energy prices, the IPA solicited feedback from stakeholders over the summer regarding the extent to which the CMC contracts could function as a financial hedge in the context of electricity procurement on behalf of ComEd's eligible retail customers.

As the 2023 Plan explains, the CMC procurement includes a consumer protection mechanism associated with the monthly calculation of CMC prices – "[i]f the monthly CMC price calculation results in a net negative value, such as is likely to be the case during periods of high wholesale electricity prices, the CMC supplier makes payments that benefit all of ComEd's retail customers." Plan at 86. Indeed, through the CMC contracts executed by ComEd and the supplier pursuant to the IPA's CMC Procurement Plan approved in 2021, customers pledge to purchase CMCs to preserve clean nuclear generation when the combination of energy and capacity prices are low. *See Ill. Power Agency*, Docket No. 21-0718, Final Order (Nov. 10, 2021). Conversely, the nuclear generators are obligated to pay the customers when capacity and energy prices are high. As a result, CMCs materially impact the amounts that customers pay for electric service overall. Analyzing and accounting for the extent to which CMCs require payment either from or to customers is essential to assessing the price risks for those retail customers on whose behalf the IPA procurements are conducted.

ComEd adds the 2023 Plan also acknowledges that "[t]he effectiveness of utilizing the CMC price offset mechanism to 'hedge' against wholesale market outcomes is partially dependent on maintaining a portion of ComEd's eligible retail customer load unhedged by fixed price contracts procured by the IPA." Plan at 86. Indeed, to maximize the hedge, the volume of forward block products to be procured must be reduced by an amount equal to the load covered by the CMCs. This means that the amount of forward products procured plus the total CMCs equal 100% of the load requirement. Under this approach, the remaining (or "open") amount of energy not secured through a fixed-price contract is purchased in the PJM day-ahead energy market at the same prices that are used to set the CMC payments. If the market price for energy goes up, the CMC payments to customers also increase. Likewise, if the energy price goes down, the CMC payment will decrease. Importantly, because the size of the CMC payments is tied to the market price, spikes in energy prices will trigger a corresponding CMC payment to customers that will serve to offset the risks of energy price volatility to the cost of the total basket of energy supplying eligible retail customers.

While ComEd appreciates the 2023 Plan's recognition of the very real hedging benefits afforded by the CMC contract, the 2023 Plan can be refined further to ensure that those benefits are fully realized. The 2023 Plan's proposal to reduce energy procurement under fixed-price contracts to 75% is surely a step in the right direction; however, this target still "over hedges" because it does not align with (or leverage) the full amount of the load covered by the CMC contracts. Because the volumes to be procured through CMC contracts equal approximately 65% of all ComEd deliveries, it follows that roughly 65% of the default supply load is effectively price hedged by the CMC contracts. To ensure this price hedge can effectively provide price protection to default supply customers, the 2023 Plan should be revised to limit the amount of energy procured under fixed-price contracts to 40-50% of the projected load. Put another way, the Plan's 75% value should be reduced to at least 50% to align with the CMC contract value. Without this adjustment, customers are over-hedged at a level approaching 140% of projected requirements. To aid in the implementation of ComEd's proposal, Attachment B to ComEd's Objections includes the recommended monthly energy procurement targets for each month for the next three delivery years for each proposed procurement event. This approach reflects ratable procurement targets that incorporate the CMC hedge value.

ComEd states that according to the Plan, the proposed procurement target of 75%, which leaves just 25% to be procured in the day-ahead market, "best balances rate stability and CMC non-performance risk for eligible retail customers while also allowing CMCs to serve as an offset for a meaningful portion of default supply energy procurement." *Id.* at 87.

ComEd notes the IPA confirms that its charge is to design annual procurement plans "to achieve 'the lowest total cost over time, taking into account any benefits of price stability' for eligible retail customers." Plan at 86 (quoting 220 ILCS 5/16-111.5(d)). As explained in the 2023 Plan, the IPA's concern with rate stability seems to relate to the timing difference between the application of customers' charges for electric supply for a particular period and the associated CMC charge or credit for that same period:

> Leaving too significant an amount of load unhedged would expose ComEd's eligible retail customers to potentially significant rate volatility based on ever-changing wholesale market conditions. While CMCs would offer crediting and debiting back to eligible retail customers eventually offsetting

> that volatility, ComEd's CMC crediting tariff provides for two flat values for CMC crediting. Thus, should wholesale prices suddenly spike while the default supply portfolio features very high levels of unhedged load, customer prices would rise without any immediate offset from CMC crediting. Eventually, customers would receive bill reduction back to made up for those price increases through CMC crediting, but likely not until after a reconciliation proceeding had concluded for the next delivery year. The IPA does not believe that this level of volatility is consistent with the "price stability" principles guiding its planning strategy.

Id. at 86.

ComEd adds the Agency further elaborates on this concern by describing the different timelines for the calculation and application of the Purchased Electricity Adjustment ("PEA") (the charge applicable to ComEd's eligible retail customers to recover electricity supply costs) and the CMC charge/credit. With respect to the PEA, the IPA notes that "[e]ach month, customers would be billed based on the forecast energy supply costs, with the [PEA] providing a monthly true-up based on the previously months actual energy supply costs." Petition at 7. Regarding the CMCs, the Agency further explains, "ComEd's tariffs call for two flat crediting levels to be used for each delivery year [summer, non-summer] – meaning that should energy prices rise well above expectations, the full offsetting effect of CMCs would not reduce bills until after a reconciliation proceeding in the *next delivery year*." *Id.*

ComEd appreciates the IPA's attention to this timing issue, as well as the Agency's acknowledgment that customers would eventually be made whole (and the volatility offset) under ComEd's proposal. Importantly, the timing issue can be readily fixed through tariff revisions, and thus should not serve as an impediment that deprives customers of an important price hedge and protection from price volatility. Indeed, the IPA's Petition acknowledges that "ComEd could theoretically change its crediting approach to reflect PEA balancing…." *Id.* The IPA does not pursue the issue further, however, based largely on the fact that ComEd had not made this tariff revision to date or otherwise proposed such a revision prior to the present proceeding.

It is true that ComEd has not, to date, filed any anticipatory tariff revisions to eliminate the timing issue identified by the IPA should ComEd's full proposal be adopted. Absent Commission approval of ComEd's proposal in this docket, the tariff revision would be premature and speculative. However, if the Commission approves revisions to the Plan that reduce the amount of energy procured under fixed-price contracts for ComEd's eligible retail customers to 40-50% of projected supply requirements, then ComEd can commit to filing revisions to its CMC tariff – following the Commission's final order in this docket – that will reconcile any over- or under-collections under the CMC tariff on the same four-month lag that the PEA follows to reconcile purchased energy, which will enable these adjustments to effectively offset one another as shown in Attachment A Figure 2 of ComEd's Objection. *See* Rider CFRA – Carbon-Free Resource Adjustment, ILL. C. C. No. 10, 4th Rev. Sheet No. 388 *et seq*.

ComEd reiterates that the 75% target results in an over-hedged position (approaching 140% of the projected supply need), which imposes an unnecessary price risk on customers that need not be borne. Maintaining the 75% target – as opposed to a 40-50% target – means that customers must bear any excess costs associated with the 30-40% of projected supply that is covered through forward contracts and their associated risk premiums. Because this portion is not left open such that it can be offset by CMCs, customers are subject to the fixed price of the forward contracts regardless of whether day-ahead prices fall.

Addressing the risks of supplier nonperformance and default, the IPA claims that "the operation of the CMC as a credit to customers is itself subject to uncertainty, due in part to the possibility of contract default or non-performance." Petition at 6. Respectfully, this speculative concern cannot serve as a basis for depriving customers of the full benefits of the price hedge provided by the CMC contract. ComEd argues there is no evidence provided in the Plan that the counterparty to the CMC contract – Exelon Generation (now Constellation) – poses any risk of nonperformance or default. Exelon Generation has supplied zero emission credits ("ZECs") since 2017, without delay or default, and has a long history of fulfilling its contractual obligations in this State. No basis exists to suggest any different course of performance with its CMC contract obligation. Should any nonperformance or default occur, the contract developed by the IPA, Staff, and Procurement Administrator includes the appropriate remedies for Performance Assurance, including but not limited to collateral requirements that also take into account supplier credit ratings determined by independent rating agencies.

As to the first issue, ComEd supports the IPA's 75% hedging target for fixed-supply contracts based on the current record. However, ComEd further proposes that the Commission approve a contingency that would lower the target to 50% if the contemplated tariff revisions are approved this spring.

The current timing differences between the tariffs is not an insurmountable obstacle, however, and the IPA's Petition noted that "ComEd could theoretically change its crediting approach to reflect PEA balancing…." Petition at 7. ComEd accepted the IPA's invitation to address this synchronization issue, and in its Objections committed to filing tariff revisions to its CMC tariff to align the reconciliation process with the PEA process. In its Response, the IPA highlighted ComEd's proposal, and urged the Commission to take note of the value of ComEd's proposal. *See* IPA Response at 15-16. Although the IPA credited the value of the tariff revisions and their mitigation of the IPA's rate stability concerns, the IPA nonetheless declined to reduce its 75% hedging target at this time because "the Commission has not yet *approved* those changes. The IPA cannot support altering its hedging strategy based on a proposal not yet formally made requiring a regulatory action not yet taken." *Id.* at 16.

While ComEd understands the IPA's hesitancy to move forward with a 50% hedging target prior to the approval of the CMC tariff changes, this, too, is another timing issue that can be resolved in the Commission's final order. ComEd accordingly recommends the following approach: (i) the Commission should approve the 75% target set forth in the Plan, and (ii) also direct that the 75% be reduced to 50% in the event that the CMC tariff revisions described and supported by ComEd and the IPA are approved by March 31, 2023, with an effective date no later than June 1, 2023. This solution preserves the IPA's preferred approach should the tariff revisions fail to be approved while also accommodating a reduction in the target volume to 50% should the tariff revisions prevail. As a result, this approach addresses the IPA's rate stability concerns under existing tariff provisions while also leaving the door open to optimizing the CMCs' protective hedging benefits should the contemplated tariff revisions be approved.

3. IPA's Position

As explained in the 2023 Plan, the Agency uses financial hedges to manage price risk, and an objective of the IPA's procurement strategy is to maximize the stability of rates for service to eligible retail customers while minimizing costs. Based upon the unusually high energy price volatility leading up to the Agency's Spring 2022 procurement, the Agency's 2023 Plan proposes to increase the hedging percentage targets for the summer months (i.e., June – August) in procurements which precede the final spring procurement event in order to reduce the values to be procured in the prompt summer months. Plan at 88.

The Agency contends it has already considered Ameren's proposal, as it was raised in public comments offered on the draft 2023 Plan. The IPA carefully reviewed the proposal prior to filing the 2023 Plan with the Commission and has done so again here. The Agency remains unpersuaded that Ameren's proposal is preferable to the hedging strategy put forward in the 2023 Plan, for several reasons. First, the Agency believes that its proposed hedging strategy, rooted in robust financial analysis, appropriately mitigates the risk of price volatility faced by Ameren's customers. Second, the IPA's proposal provides a consistent approach to the summer and non-summer periods. Finally, the approach proposed by Ameren increases the risk of being long on load.

First, central to Ameren's proposal is the theory that an earlier hedge will result in a decrease in price risk. The Agency agrees – and its 2023 Plan recognizes – that volatility of forward prices tends to increase as time to delivery becomes short. Plan at 82. Ameren's reliance upon the around-the-clock prices at the MISO Indiana Hub indicates, however, that it may be conflating price volatility with price itself. That is, it appears that Ameren argues that reduced volatility also leads to reduced electricity prices. This is not always true – an earlier hedge may be procured at a time of greater price stability, though if future prices decrease following the earlier procurement event, that stability may come at a higher price to customers. Of course, it is also likely that energy prices will continue to rise generally, and an earlier hedge will be procured at a time when prices are lower. For this reason, in order to determine the appropriate hedging strategy, the IPA has conducted a robust analysis of forward energy markets, including studying price volatility.

In developing the 2023 Plan, the Agency and its Procurement Planning Consultant performed multiple studies of the relationship between procurement scheduling and price volatility, and selected a procurement schedule which minimizes volatility. Plan at 76. The Agency conducted a review of the total hedged energy procurement cost for each delivery month under the hedge percentage schedules and alternative schedules. Plan at 80-81. This analysis shows that the standard deviation for the summer months on the Agency's current hedging strategy (i.e., the strategy that was approved under the last annual electricity procurement plan) are dramatically higher than those of other plans—

that is, it shows the significant price increases which have been seen across energy markets in the summer months of 2022. Plan at 81. The analysis of the hedge portfolio price mean and standard deviation do not provide support for procuring energy hedges in the non-summer months earlier than proposed within the Plan. Plan at 82. In light of these analyses, the Agency believes that the proposed hedging percentages are sufficient to mitigate price risks for Ameren's eligible customer portfolio.

In order to avoid having short-term trends of price volatility (that is, the volatility seen in the Spring 2022 procurement) drive the overall procurement strategy, the IPA conducted a statistical analysis of volatility terms, grounded in financial economic theory and quantitative methods. The Agency accounted for these volatility analyses in the development of a revised hedging strategy for the Ameren territory that creates a portfolio with less uncertainty resulting from having about 75% of requirements in hand prior to the Spring procurement event in the prompt year. The Agency believes that this detailed and comprehensive analysis supports the hedging strategy set forth in the 2023 Plan.

Second, the Agency takes issue with the inconsistent hedging levels in Ameren's proposal. The Agency's revised hedging strategy for the summer period—which Ameren supports—leaves 25% of the summer supply requirements to be procured at the spring procurement event for the prompt year. The IPA's proposal likewise calls for 25% of the supply requirements to be procured in the last event prior to the non-summer months. Ameren, however, proposes an inconsistent treatment for the non-summer months. This inconsistent treatment of strategies for summer and non-summer months is unexplained.

Finally, by procuring a larger hedge, Ameren increases the risk of being long on supply. It is not unreasonable to assume that there may be more customer load switching to competitive supply given the recent price volatility and overall price increases seen in energy markets. Increasing the hedging levels in non-summer months as proposed by Ameren would increase the risk of being long should the 2023 load forecast demonstrate significant load migration from Ameren to competitive suppliers. The Agency finds that its proposed hedging strategy more appropriately accounts for this risk.

The Agency maintains that it has grounded its hedging strategy in robust financial analysis of forward energy markets and appropriately accounted for price volatility, regardless of season. The Ameren hedging strategy is inconsistent across the summer and non-summer periods and inappropriately increases the risk of being long on the hedge for the September-May period. Accordingly, the IPA does not support Ameren's proposed changes to the hedging strategy for its service territory. In the event that the Commission adopts the proposal raised by Ameren, the Agency confirms that the change in strategy would require modifications throughout the Plan (that is, not only in Section 6.9), which the IPA would include in the Final 2023 Plan.

In response to ComEd's proposal, the IPA notes that as explained in Section 6.9.1 of the 2023 Plan, the Agency partially adopted a recommendation made by ComEd in comments on the Draft 2023 Plan to reduce its hedging targets in light of the offsetting benefits of CMC pricing. Plan at 85-87. The Agency generally agrees that CMCs can provide a price offsetting mechanism but believes that leaving the bulk of default supply load unhedged carries outsized risks to customers, and therefore set the hedging target in the 2023 Plan to 75% in the ComEd territory. The Agency believes that the filed Plan's proposed approach of hedging to 75% constitutes the safest, most balanced approach to ensuring that IPA energy procurements achieve "the lowest total cost over time, taking into account any benefits of price stability" for ComEd's default supply customers.

For background, the IPA's traditional energy hedging strategy (and the hedging strategy still used in the Plan for Ameren and MidAmerican) involves procuring either 100% (in non-summer months) or 106% (in summer months) of forecasted eligible retail customer load in a laddered fashion across three delivery years. This laddered hedging strategy ensures that customers are protected against rate instability in times of unexpectedly high wholesale prices, as much of the supply used to meet their load was procured in advance. Were that load unhedged (i.e., if supply not procured for that load in advance), then customers would ultimately be charged the prevailing prices in day-ahead and real-time markets for that unhedged load, with the difference between expected energy supply costs and actual energy supply costs settled monthly on eligible retail customers' bills through the PEA. In approving the IPA's annual plan, the Commission has repeatedly recognized that this three-year laddered hedging approach at these 100%/106% forecast load levels indeed provides "the lowest total cost over time, taking into account any benefits of price stability."

Separately, under the CMC procurement regime authorized through P.A. 102-0662 (used to support the continued operation of at-risk nuclear power plants), participating carbon-free (nuclear) generators supply CMCs to ComEd, paid for by ComEd's retail customers. Much like with the Illinois RPS and the procurement of RECs, those CMCs constitute recognition of the environmental attributes of carbon-free generating facilities. Under the statutory CMC pricing regime, as day-ahead wholesale energy prices rise, CMC prices fall accordingly, including into negative values that constitute a credit on ComEd retail customers' bills, as has been the case in every month since CMC deliveries began (often by massive amounts).

The 2023 Plan "include[d] changes to the IPA's energy hedging strategy in light of comments provided by ComEd —although stopping short of adopting the massive reduction in energy hedging levels sought by ComEd." Specifically, the filed 2023 Plan reduced the target hedging percentage for ComEd energy supply from 100/106% in the draft Plan down to 75% in light of the offsetting benefits of CMC pricing. Thus, while the amount refunded to (or collected from) customers resultant from CMC settlement is unaffected by the IPA's hedging strategy, through maintaining an open (i.e., unhedged) position for a portion of ComEd eligible retail customer load, CMC values can offset those day-to-day market changes. CMCs offer a similar offset at higher hedging levels, but because CMC calculations are not based on those forward prices, that offsetting effect is more approximate than the nearly one-to-one offset resultant from an open position met through day-ahead energy supply procurement.

ComEd seeks for the IPA to "limit the amount of energy procured under fixed-price contracts to 40-50% of the projected load," leaving the remainder to be procured primarily in day-ahead markets. The IPA offered three primary reasons for not adopting such a low hedging percentage. First, because the operation of the CMC as a credit to customers is itself subject to uncertainty—due to the possibility of contract default, non-performance, and load migration—a higher hedging percentage offered a "hedge against the hedge" of being fully dependent on the offsetting benefits of CMCs. Second, given the disconnect in settlement cycles between the PEA (through which differences in supply cost are settled against actual supply charges on customer bills through monthly changes) and the timing of CMC crediting adjustments, an open position would create significant rate instability inconsistent with the IPA's statutory charge. And third, there is simply no guarantee that a lower hedging percentage will provide lower costs, and the three months of Summer 2022 data featuring high forward prices and more mild day-ahead prices cited by ComEd in its draft Plan comments is insufficient evidence to demonstrate what future periods may yield.

The IPA notes that ComEd now states that if the Commission approves revisions to the Plan that reduce the amount of energy procured under fixed-price contracts for ComEd's eligible retail customers to 40-50% of projected supply requirements, then ComEd can commit to filing revisions to its CMC tariff– following the Commission's final order in this docket – that will reconcile any over- or under-collections under the CMC tariff on the same four-month lag that the PEA follows to reconcile purchased energy. ComEd is proposing a material change in its tariffs which the IPA believes improves ComEd's proposal's impacts on eligible retail customers. Having CMC reconciliation timing mirror PEA reconciliation timing provides a more true and timely offset for eligible retail customers, resulting in more stable month-over-month supply rates. As the Commission considers these issues, it should be mindful of the value of this proposal.

Nevertheless, the IPA cannot support less than a 75% hedging target in this proceeding. While ComEd proposes filing tariff revisions, the Commission has not yet approved those changes. The IPA cannot support altering its hedging strategy based on a proposal not yet formally made requiring a regulatory action not yet taken. This is especially the case for a proposal that may face opposition; competitive supply customers could oppose this tariff revision—which would apply to all retail customers, and not only default supply customers—as it could create unwanted rate instability for customers taking fixed price supply from a retail supplier. Given that regulatory uncertainty, the IPA continues to believe that the most prudent, responsible approach is to "hedge against the hedge" by procuring a higher level of forward contracts for load expected to be offset by CMCs.

Rate stability was merely one of the reasons why the IPA proposed a 75% hedging strategy, and ComEd fails to provide compelling arguments related to the IPA's other concerns. With respect to the risk of nonperformance or default, while ComEd alleges that "[t]here is no evidence provided in the Plan that the counterparty to the CMC contract – Exelon Generation (now Constellation) – poses any risk of nonperformance or default," one need only look at the expected CMC payments (presently projected to be billions of dollars in the present delivery year alone) relative to the collateral forfeited upon default (in the tens of millions of dollars) to gauge this risk. And as the IPA outlined in its Petition, should energy prices rise relative to expectations, eligible retail customers would realize cost savings through hedging higher levels of supply in advance—thus producing a lower "total cost over time" for eligible retail customers.

For the foregoing reasons, the IPA continues to believe that a 75% hedging level for ComEd eligible retail customers best balances the benefits of CMC price offsetting through a partially open position while protecting against the risks offered by a larger open position. While the IPA genuinely appreciates ComEd's commitment to filing tariff revisions, the IPA must develop its procurement plan based on the existing regulatory structure and better mirroring CMC crediting with PEA adjustments addresses only one of the IPA's concerns.

4. Commission Analysis and Conclusion

The Commission notes the parties agree that adjustments are needed to Ameren and ComEd's hedging strategies in response to all blocks not being filled in the spring 2022 procurement event due to an unusually high level of price volatility. The IPA stated it considered Ameren's proposal to increase hedging goals for non-summer months as it established the 2023 Plan's hedging strategy. The Commission agrees the IPA conducted a robust financial analysis of forward energy markets that appropriately accounts for price volatility, regardless of the season. The 2023 Plan is consistent across the summer and non-summer months and appropriately accounts for the risk of being long on the hedge for the September-May period. Therefore, the 2023 Plan's hedging strategy as it relates to the Ameren service territory is reasonable and hereby approved.

While ComEd supports the 2023 Plan's hedging strategy of 75% based on the current record, ComEd recommends in its Reply that the target should be reduced to at least 50% to account for the CMC hedge value if ComEd's CMC tariff revisions described by ComEd and the IPA are approved by March 31, 2023, with an effective date no later than June 1, 2023. ComEd adds that without this adjustment, customers are over-hedged at a level approaching 140% of projected requirements.

The Commission agrees with the IPA and ComEd that CMCs can provide a valuable price offsetting mechanism, and that before the 75% target could be lowered to 50%, revisions would first need to be made to ComEd's CMC tariff to reconcile any over- or under-collections under the CMC tariff on the same four-month lag that the PEA follows to reconcile purchased energy. The Commission appreciates ComEd's willingness to commit to filing revisions to its CMC tariff, but notes ComEd has not made such tariff revisions to date.

As noted above, the IPA developed its procurement plan based on the existing regulatory structure. The Commission agrees with the IPA and ComEd that, at this time, the 2023 Plan's 75% hedging level for ComEd eligible retail customers best balances the benefits of CMC price offsetting through a partially open position while protecting against the risks offered by a larger open position. However, the Commission also finds ComEd's contingency proposal as set forth in its Reply to be a reasonable compromise should the Commission approve the contemplated tariff revisions, which would trigger the associated reduction in the hedging level to 50% if those revisions are approved by March 31, 2023. As a result, the Commission also approves this contingency proposal, which will avoid inefficiencies with future reopening proceedings should the contingency materialize.

IV. COMMISSION ANALYSIS AND CONCLUSION

Having reviewed the 2023 Plan and subsequent Objections, Comments, Responses, and Replies, the Commission approves the 2023 Plan as submitted by the IPA and modified herein. Specifically, the Commission approves the base case load forecasts of ComEd, Ameren, and MidAmerican as submitted in July 2022.

Moreover, as proposed by the IPA, the Commission approves two energy procurement events scheduled for Spring 2023 and Fall 2023. The energy amounts to be procured in the spring will be based on the updated March 15, 2023 base case load forecasts developed by Ameren, MidAmerican, and ComEd, in accordance with the hedging levels stated in the 2023 Plan. The energy amounts to be procured in the Fall will be based on the July 15, 2023 base case load forecasts developed by Ameren Illinois, MidAmerican, and ComEd, in accordance with the hedging levels stated in the 2023 Plan. In the event of default on CMC contracts, the IPA may change the hedging percentages for ComEd to mirror those of Ameren and MidAmerican, with the consensus of the IPA, Staff, and the Procurement Monitor.

The Commission further approves three capacity procurement events for Ameren scheduled for early 2023, Spring 2023, and Fall 2023. The early 2023 procurement event is the replacement for the cancelled Fall 2022 procurement event. The capacity target for the early 2023 procurement will be based on an updated capacity forecast and procurement targets to be provided by Ameren and submitted to the IPA no later than January 6, 2023. The capacity target for the Spring 2023 procurement will be based on the updated March 15, 2023 base case load forecast developed by Ameren in accordance with the hedging levels stated in the 2023 Plan. The capacity target for the Fall 2023 procurement will be based on the July 15, 2023 base case load forecast developed by Ameren, in accordance with the hedging levels stated in the 2023 Plan.

In addition, the January 6, 2023 capacity forecast, and March 15, 2023 and July 15, 2023 forecast updates to be provided by the utilities to be used to implement the 2023 Plan are pre-approved by the Commission as part of the approval of the 2023 Plan, subject to the review and consensus of the IPA, Staff, the Procurement Monitor, and the applicable utility. In the event that the parties do not reach consensus on an updated load forecast, then the most recent consensus load forecast will be used for the applicable procurement event. If the parties are unable to reach consensus on either of the updated load forecasts required in Items 2 and 3 of Section 1.4 of the 2023 Plan, then the July 2022 load forecast will be used for the applicable procurement event.

The Commission further finds that it is appropriate to approve procurement by ComEd, Ameren, and MidAmerican of capacity, network transmission service, and ancillary services from each utility's respective Regional Transmission Organization.

Thus, pursuant to Section 16-111.5(d)(4) of the Act, the Commission approves the 2023 Procurement Plan, including the load forecasts used in the plan, and finds that 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. 220 ILCS 5/16-111.5(d)(4).

V. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having reviewed the entire record, is of the opinion and finds that:

(1) Commonwealth Edison Company, Ameren Illinois Company d/b/a Ameren Illinois, and MidAmerican Energy Company are corporations engaged in the retail sale and delivery of electricity to the public in Illinois, and each is a

"public utility" as defined in Section 3-105 of the Public Utilities Act and an "electric utility" as defined in Section 16-102 of the Public Utilities Act;

(2) the Commission has jurisdiction over the parties hereto and the subject matter hereof;

(3) the recital of fact and conclusions of law in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact and conclusions of law;

(4) the load forecast for Ameren Illinois Company d/b/a Ameren Illinois attached to the Illinois Power Agency's September 28, 2022 Petition should be approved; the load forecast for Commonwealth Edison Company attached to the Illinois Power Agency's September 28, 2022 Petition should be approved; the load forecast for MidAmerican Energy Company attached to the Illinois Power Agency's September 28, 2022 Petition should be approved;

(5) the 2023 Plan filed by the Illinois Power Agency pursuant to Section 16-111.5 of the Public Utilities Act should be approved as modified above; the 2023 Plan, and load forecasts found appropriate above, 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; in making this finding, the Commission is not expressing its concurrence in every statement or opinion contained in the 2023 Plan and no presumptions are created with respect thereto; and

(6) all motions, petitions, objections, and other matters in this proceeding which remain unresolved should be disposed of consistent with the conclusions herein.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the 2023 Plan as modified above and load forecasts filed by the Illinois Power Agency pursuant to Section 16-111.5 of the Public Utilities Act are hereby approved.

IT IS FURTHER ORDERED that all motions, petitions, objections, and other matters in this proceeding which remain unresolved are disposed of consistent with the conclusions herein.

IT IS FURTHER ORDERED that pursuant to Section 10-113(a) of the Public Utilities Act and 83 Ill. Adm. Code 200.880, any application for rehearing shall be filed within 30 days after service of the Order on the party.

IT IS FURTHER ORDERED that, subject to Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 15th day of December, 2022.

(SIGNED) CARRIE ZALEWSKI

Chairman