

I. Matrix of Issues Regarding the Post-Workshop Section 16-111.5B Energy Efficiency Questions and Classification of Parties’ Positions on Each Issue

The Section 16-111.5B EE Workshops will document, review, and clarify areas where consensus has been reached based in part on Parties’ Initial and Reply Comments regarding the Post-Workshop Section 16-111.5B EE Questions. While effort was made to have this matrix comprehensively cover the issues that Parties raised in Initial and Reply Comments, it is expected that there may be omissions. If a party would like a specific issue added to this matrix, please e-mail the issue to jhinman@icc.illinois.gov.

Yellow Highlight=Consensus Blue Highlight=Skipped/On Hold

#	Q	Issue/Position	Support	Oppose	Neutral
1	1	By definition, an “expansion” of a Section 8-103 EE program per Section 16-111.5B means that (1) the expanded portion of the EE program cannot be uniquely distinguished and able to be tracked separately from the Section 8-103 portion of the expanded EE program, and (2) the expanded portion of the EE program must operate under the same rules and construct (e.g., flexibility, merged budget) as the Section 8-103 portion operates.	Ameren	CUB ICC Staff	IPA
2	1-1	If clear separation of costs and savings between Sections 8-103 and 16-111.5B EE portfolios is required, then there cannot be an expansion of the Section 8-103 EE programs per Section 16-111.5B.	Ameren	CUB ICC Staff	
3	1	An “expansion” of a Section 8-103 EE program per Section 16-111.5B is not strictly defined and could include expanding the EE program in such a way as to facilitate tracking of the Section 16-111.5B portion of the expanded EE program.	ComEd CUB ICC Staff Ameren IPA NRDC		
4	1	It is feasible to include EE program expansions in IPA procurements.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
5	1	Due to timing problems, it may not be feasible to include expansion of Section 8-103 EE programs in IPA procurements during years in which there are no Section 8-103 EE programs that have been approved by the Commission.	AG Ameren CUB ComEd ICC Staff NRDC	CUB	

#	q	Issue/Position	Support	Oppose	Neutral
6	1	The utilities should include cost-effective expansions of the Section 8-103 EE programs in the annual EE assessment they submit to the IPA, unless Section 8-103 EE programs are already expected to achieve the maximum achievable cost-effective savings.	AG CUB NRDC Ameren ComEd		
7	1	To align the filing timelines across Sections 8-103 and 16-111.5B to facilitate including EE program expansions in the EE assessments the utilities submit to the IPA, the utilities and DCEO could file their next Section 8-103 EE plans with the Commission by July 1, 2016. <u>(Need gas utility support)</u>	Ameren ComEd CUB ICC Staff NRDC		
8	1.1	<u>Utilities’ Section 16-111.5B EE program is to implementers should include solicitation for both expansions of Section 8-103 and new or different EE programs.</u> A hard and fast rule is unnecessary with respect to whether Section 16-111.5B EE programs should be limited to new or different EE programs than those included in a utility’s Section 8-103 EE portfolio.	ComEd CUB ICC Staff NRDC	AG	
9	1.1	The Section 16-111.5B EE programs should necessarily have less cumbersome evaluation protocols.	CUB	ICC Staff	
10	1.1	The utilities cannot manage EE programs procured pursuant to Section 16-111.5B in the same way as they manage the Section 8-103 EE programs.	CUB ICC Staff NRDC ComEd Ameren		IPA
11	1.1, 3	Evaluation of the Section 16-111.5B EE programs should be performed by the Section 8-103 EE program evaluators. *-Best Practices-*	AG Ameren ComEd CUB ICC Staff NRDC		
12	1.1	Evaluation of Sections 8-103 and 16-111.5B EE programs should be coordinated.	Ameren ComEd CUB ICC Staff NRDC		
13	2	It is not necessary for the Section 8-103 EE portfolio to be approved by the Commission for a specific year in order for EE program expansions, including expansion of DCEO’s EE programs, to be included in that year’s EE assessment that is submitted to the IPA per Section 16-111.5B.	AG CUB NRDC	Ameren ComEd	
14	2	DCEO is allowed to offer EE programs under Section 16-111.5B.	AG Ameren ComEd CUB ICC Staff IPA NRDC		

#	q	Issue/Position	Support	Oppose	Neutral
15	2	Expansion of DCEO’s Section 8-103 EE programs should be included in the EE assessment that the utilities submit to the IPA per Section 16-111.5B, <u>assuming cooperation from DCEO.</u>	AG Ameren ComEd CUB NRDC		
new	2	<u>It would be appropriate for DCEO to bid programs into the utilities’ annual EE assessments (RFP).</u>	Ameren ComEd CUB ICC Staff IPA DCEO NRDC		
		<u>Still questioning contracting relationship with DCEO under Section 16-111.5B EE programs.</u>			
16	2	Expansion of DCEO’s Section 8-103 EE programs would need to be shown to be cost-effective per Section 16-111.5B requirements.	ComEd CUB ICC Staff IPA NRDC		Ameren
17	3	Sections 8-103 and 16-111.5B EE portfolios can be kept separate.	AG Ameren City of Chicago ComEd CUB ICC Staff NRDC		IPA
18	3	Keeping Sections 8-103 and 16-111.5B EE portfolios separate results in no expansion <u>of identical of</u> Section 8-103 EE programs, <u>unless implementation rules remain the same for both portfolios.</u>	Ameren	CUB ICC Staff	
19	3	In order to optimize the administration, operations, and achievement of separate Section 16-111.5B energy savings, there would still need to be a harmonized set of rules by which the Section 16-111.5B EE portfolio is managed which mirrors the rules for the Section 8-103 EE portfolio (e.g., flexibility) in order to alleviate confusion for implementers, administrators, program allies, and customers.	AG ComEd Ameren NRDC ICC Staff	CUB	
20	3	Combining Sections 8-103 and 16-111.5B EE portfolios.	AG Ameren NRDC	City of Chicago ComEd CUB ICC Staff	IPA

#	q	Issue/Position	Support	Oppose	Neutral
		Combining the Sections 8-103 and 16-111.5B portfolios and not subjecting the combined goal to penalties, only the Section 8-103 goals are subject to penalties, and all savings from expanded programs count toward the 8-103 goals.	Ameren ComEd	ICC Staff NRDC AG CUB City of Chicago	
21	3	Savings from the Section 8-103 portion of an expanded EE program would count toward achievement of a utility’s Section 8-103 savings goal.	AG Ameren ComEd CUB ICC Staff NRDC		IPA
22	3	Savings from the entire expanded EE program would count toward achievement of a utility’s Section 8-103 savings goal.	Ameren	City of Chicago CUB ICC Staff NRDC	IPA ComEd
23	3	Savings from the Section 16-111.5B portion of an expanded EE program would count toward achievement of a utility’s Section 16-111.5B savings goal, not the Section 8-103 savings goal.	AG Ameren ComEd CUB ICC Staff NRDC		IPA
24	3	Banking policies would not overlap between Sections 8-103 and 16-111.5B.	Ameren ComEd CUB ICC Staff NRDC		
25	3	There is no need for banking under Section 16-111.5B.	Ameren ComEd CUB ICC Staff NRDC		
26	3	Instead of banking, if a utility or vendor exceeds the performance specified for a year, the utility or vendor can be compensated for additional cost-effective savings achieved, as this would create an incentive for utilities and third-party vendors to maximize the achievement of cost-effective energy efficiency.	CUB		
27	3	Banking rules for Section 16-111.5B EE programs would be the same as for Section 8-103 EE programs, but only for the duration of contracts put in place. There would be no banking for EE programs accepted for one year of implementation, only for EE programs accepted for two or three years.	AG Ameren NRDC ComEd		

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28	3	Sections 8-103 and 16-111.5B EE budgets would be kept separate.	AG Ameren ComEd CUB ICC Staff NRDC		
29	3	Funds approved pursuant to Section 16-111.5B could not be spent on EE programs that were not approved in the procurement plan docket.	Ameren ComEd NRDC CUB ICC Staff		
30	3	EE program expansions would be expanded in such a way as to facilitate utility tracking of the original Section 8-103 portion and the Section 16-111.5B portion of the expanded EE program. <u>(not expanded in exactly the same manner)</u>	Ameren ComEd CUB ICC Staff NRDC		
31	3	Savings from expanded EE programs sh ould be allocated based on the proportion of savings originally forecasted for the expansion. <u>(may not be feasible unless the evaluation rules for 8-103 and 16-111.5B are the same – e.g., deeming NTG annually or across multiple years)</u>	AG Ameren NRDC ComEd	ComEd	
32	3	For general reporting purposes, it would be appropriate to report each Section’s EE goals, achieved savings, and budgets together to show the impact of the utilities’ EE portfolios across the state, in addition to separately, so that progress can be tracked separately for each EE portfolio.	AG Ameren ComEd CUB ICC Staff NRDC		
33	3	Evaluations for expanded EE programs could be presented in a single evaluation report with a clear delineation in the tables reporting the savings amount associated with the Section 8-103 portion of the expanded EE program and the savings amount associated with the Section 16-111.5B portion of the expanded EE program. <u>Section 16-111.5B EE evaluation reports should be provided to the Commission in a public docket, either reconciliation proceeding or savings docket.</u>	AG Ameren CUB ICC Staff	Ameren	Ameren ComEd IPA
34	3	If the IL-TRM in effect at the time of bid submittal is used for evaluation purposes for the Section 16-111.5B EE programs, then the evaluators will need to perform savings verification using two different IL-TRMs, one for the Section 16-111.5B EE measures (or Section 16-111.5B portion of the expanded EE program) and the other for the Section 8-103 EE measures (or Section 8-103 portion of the expanded EE program).	CUB ComEd ICC Staff Ameren		

#	q	Issue/Position	Support	Oppose	Neutral
		Expanded 8-103 EE programs may operate under different rules than the third party vendor proposals submitted through the annual assessment (RFP process). Deal with this in the evaluation plans.		Ameren ComEd	
		Expanded 16-111.5B portions of the expanded EE programs should operate under the same rules as the third party vendor proposals submitted through the annual assessment (RFP process).	ComEd CUB Ameren ICC Staff		
		NTG			
35	3	Similar to keeping reconciliation of revenues from Sections 8-103 and 16-111.5B in single rider reconciliation proceedings, the evaluations of the Section 16-111.5B EE programs would be filed in the utility’s Section 8-103 savings dockets for Commission review.	CUB ICC Staff AG	Ameren ComEd	
36	3,5	Evaluations of the Section 16-111.5B EE programs could be filed as a compliance filing in the procurement plan docket that the EE program was originally approved.	Ameren ComEd CUB	AG	NRDC
37	3	Sampling in evaluation (e.g., NTG) could occur on an expanded EE program-level basis, or could be based on each component of the expanded EE program (the Section 8-103 portion and the Section 16-111.5B portion of the expanded EE program), depending on the specific circumstance.	Ameren CUB ICC Staff ComEd		
38	3	Ex-post cost-effectiveness analysis should be performed for the Section 16-111.5B EE programs.	Ameren AG ComEd NRDC ICC Staff CUB	CUB	IPA
39	3	Ex-post cost-effectiveness analysis should be performed using actual participation and the original inputs IL-TRM used in modeling.	Ameren ICC Staff ComEd CUB		
		Ex-post cost-effectiveness analysis should be performed using actual participation and the best available information (e.g., updated NTG).	ComEd ICC Staff CUB		Ameren
		Ex-post cost-effectiveness analysis should be performed using actual participation and the original inputs (including avoided costs) used in modeling.	Ameren ICC Staff CUB	ComEd	ComEd
40	3	There must be a balance in the evaluation of Section 16-111.5B EE programs between the degree of evaluation and the size of the program, wherein larger programs justify more complete evaluations.	AG Ameren ComEd CUB ICC Staff NRDC		

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41	3	To the extent parties are concerned with EE replacing power purchase needs under Section 16-111.5B, it would be appropriate for the <u>IPA and procurement administrator in consultation with the utilities and/or evaluators</u> to attempt to estimate the amount that the Section 16-111.5B EE programs reduce the IPA’s need to procure supply, to serve as a check on the utilities’ original estimate required by Section 16-111.5B(a)(3)(G), <u>and to provide useful information to customers.</u>	Ameren ICC Staff <u>AG</u> <u>NRDC</u>	CUB	<u>ComEd</u> <u>IPA</u>
42	3	EE procured through Section 16-111.5B is intended to offset the purchase of energy supply and not allow utilities greater ease at meeting the statutory targets of the Section 8-103 EE programs.	CUB		
43	3	Utilities are not subject to penalties for failure to achieve the annual Section 16-111.5B energy savings goal.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
44	3	There is no annual savings goal for the Section 16-111.5B EE programs.	<u>CUB</u> <u>IPA</u>	AG ICC Staff NRDC <u>IPA</u> <u>CUB</u>	
45	3	To the extent practicable, the contracts for the Section 16-111.5B EE programs should be written as supply contracts.	Ameren CUB		
46	3	In general, the IL-TRM should be used for Section 16-111.5B EE programs.	AG Ameren ComEd CUB ICC Staff NRDC		IPA
47	5.1. 2	There may be special circumstances where deviation from the IL-TRM may be appropriate; the utility/ <u>vendor</u> should have the option to make the case for the special circumstance. <u>However, the IL-TRM values must also be provided for comparison purposes.</u>	<u>AG</u> <u>Ameren</u> <u>CUB</u> ComEd ICC Staff <u>NRDC</u>		<u>IPA</u>
48	3	Section 16-111.5B EE programs should not be re-evaluated for cost-effectiveness once they are approved by the ICC.	CUB		
49	3	Since the Section 16-111.5B EE programs are procured as if supply, <u>then re-negotiation or termination there</u> should not <u>occur</u> mid-contract <u>due to a re-evaluation of cost-effectiveness and savings, re-negotiation, or termination</u> as this would create uncertainty for third party vendors and reduce the number of bids from third party vendors. <u>Termination can occur for performance based reasons.</u>	CUB	<u>ICC Staff</u> <u>NRDC</u> <u>ComEd</u> <u>AG</u> <u>Ameren</u>	<u>IPA</u>

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50	3	There is no risk of expending funds <u>imprudently</u> unwisely with a “pay for performance” contract.	CUB	ICC Staff	
51	3	Not all Section 16-111.5B EE programs should necessarily be evaluated.	AG NRDC	ComEd	
52	3	Expanded EE programs would receive one evaluation.	AG NRDC		
53	3	Separate programs, contracts, and budgets does not allow for a combined evaluation budget (nor expansion of EE programs) and thus operational efficiencies for evaluation does not occur.	Ameren		
54	4	Multi-year EE procurement is allowed in the context of the annual EE procurement plan proceeding.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
55	4	The length of multi-year EE procurements should be restricted to the Section 8-103 planning timeframes.	AG ComEd CUB NRDC	ICC Staff	Ameren IPA
		<u>At this time, restricting multi-year EE procurements to three years and allowing deeming of IL-TRM used at time of bid submission would be appropriate.</u>	ICC Staff		
		<u>Utilities should include bid reviews in their EE assessments submitted to the IPA (similar to ComEd last year).</u>	ICC Staff ComEd NRDC AG ELPC Ameren		
		<u>Utilities should include all bids in their EE assessments submitted to the IPA (similar to Ameren last year).</u>	ICC Staff ComEd Ameren NRDC		
		<u>Even if bidders submit three year bids, there should be the option to limit the bid to a single year (e.g., if it is not a “proven” program).</u>	Ameren ICC Staff ComEd		
56	4.2	It’s appropriate to structure Section 16-111.5B EE contracts as “pay-for-performance”.	Ameren AG ComEd CUB ICC Staff IPA NRDC	AG Ameren NRDC	

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57	4.2	Utilities should have flexibility to structure Section 16-111.5B EE contracts in a manner which best balances the potentially competing objectives of making the procurement process attractive to as many bidders as possible and providing confidence that the savings which are proposed/bid will actually be delivered.	AG Ameren ComEd ICC Staff NRDC CUB	CUB	
58	4.2	Parties should work toward agreeing upon a set of principles for Section 16-111.5B EE contract design.	CUB		
59	4.2	No legal requirement for Section 16-111.5B EE contracts to be structured around a “pay-for performance” structure.	AG Ameren ComEd ICC Staff NRDC		IPA
60	5	Due to Section 16-111.5B(a)(5) indicating that the utility procurement of the additional EE is not subject to the requirements of Section 16-111.5(e), this means there should be no accountability or review or evaluation of the Section 16-111.5B EE programs (only expanded Section 8-103 EE programs).	Ameren	AG CUB ICC Staff NRDC	
61	5	TRM values “in effect” at time of bid submission should be deemed, where “in effect” means the most recent Commission-approved IL-TRM.	Ameren ComEd CUB ICC Staff	AG NRDC	
		<u>NTG – not included in IL-TRM. Bidders include a NTG in bids and utilities adjust based on reasonableness. Utilities can include justification for NTG in submittal and if uncontested, it can be deemed for term of contract if NTG approved by Commission. Limit to three year EE procurement under Section 16-111.5B and then can deem NTG for those three years.</u>	Ameren ComEd ICC Staff	AG NRDC	
62	5	TRM values in effect at time of Commission approval should be deemed.	AG Ameren NRDC	Ameren ComEd ICC Staff	
63	5	TRM values in effect at time of bid submission should be deemed for the length of time the Commission approves the EE program.	Ameren ComEd CUB ICC Staff	AG NRDC	
64	5	TRM values in effect at time of Commission approval should be deemed for only the first year of EE program implementation.	AG Ameren NRDC	Ameren CUB ComEd	
65	5	To enable bidders to use the TRM values in effect at time of Commission approval in submitting their bid, the utilities could conduct the annual solicitation (RFP) when the consensus Updated IL-TRM is available.	ICC Staff	ComEd Ameren	

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66	5	There is no prudence accountability in a docketed proceeding but no docketed proceeding for savings goals is required perwarranted for the Section 16-111.5B EE programs.	Ameren ComEd ICC Staff NRDC IPA		
67	5.1	Only expanded Section 16-111.5B EE programs should be evaluated, the other Section 16-111.5B EE programs do not need to be evaluated.	Ameren	ComEd	
68	5.1	Evaluation is consistent with the law in that it verifies that savings are in fact occurring to offset power procurement needs, and process evaluation is justified to encourage improvement in the implementation of the EE programs.	CUB ICC Staff		
69	5.1	Expenditures on evaluation should be capped for the Section 16-111.5B EE programs as they are for the Section 8-103 EE programs.	CUB ComEd Ameren ICC Staff NRDC		
70	5.1	The cost of evaluation and the proposed methodology should be included in responses to the utility RFPs.	CUB		
71	5.1	Ex-post evaluation results should only be used prospectively to adjust TRM values, NTG and forecast savings.	AG Ameren ComEd CUB NRDC	ICC Staff	
72	4.2	NTG values should be deemed for the length of the Section 16-111.5B EE contract.	CUB	AG NRDC	
73	5	Changes in NTG assumptions should be made through consensus of the SAG.	AG NRDC	Ameren ComEd	
74	5	Evaluation of the expanded Section 16-111.5B portion and the original Section 8-103 portion of an expanded EE program must use only one set of rules in the evaluation; the expanded EE program would need to be evaluated using either the Section 8-103 rules or the Section 16-111.5B rules for both portions of the expanded EE program.	AG Ameren NRDC	CUB ICC Staff	
75	5	Evaluation of the expanded Section 16-111.5B portion and the original Section 8-103 portion of an expanded EE program should be evaluated using the Section 8-103 rules for both portions of the expanded EE program.	AG Ameren NRDC	CUB ICC Staff	
76	5	Evaluation of the expanded Section 16-111.5B portion and the original Section 8-103 portion of an expanded EE program should be evaluated using the Section 16-111.5B rules for both portions of the expanded EE program.	Ameren	ICC Staff	

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77	5	Evaluation of the expanded Section 16-111.5B portion and the original Section 8-103 portion of an expanded EE program can be evaluated using the Section 8-103 rules for the original Section 8-103 portion of the expanded EE programs and the Section 16-111.5B rules for the expanded Section 16-111.5B portion of the expanded EE program.	CUB ICC Staff	AG Ameren NRDC	
78	5	Annual adjustments to TRM values should affect multi-year EE programs.	AG <u>Ameren</u> <u>ComEd</u> NRDC	CUB <u>ComEd</u> <u>Ameren</u>	
79	5.1.1	Section 16-111.5B EE programs may be included in the IL-TRM update process.	AG Ameren ComEd CUB ICC Staff NRDC		IPA
80	5.1.1	Section 16-111.5B EE programs should be included in the IL-TRM and NTG ratio development processes <i>only</i> if the programs are at least partially included in the Section 8-103 EE portfolio as well.	CUB	ICC Staff	
81	6.6.1	There are no goals, budgets, or affected supply requirements in <u>explicitly specified in</u> Section 16-111.5B.	Ameren <u>ComEd</u> CUB IPA <u>ICC Staff</u>	ICC Staff	
82	6	Ex-post evaluation results should be applied retrospectively for custom savings calculations.	AG <u>ComEd</u> ICC Staff NRDC	<u>Ameren</u>	<u>IPA</u>
83	6	Utilities should be responsible for prudently administering the contracts with third party vendors.	CUB ICC Staff		
84	6	Section 16-111.5B does not <u>require allow for</u> the utility to be responsible for determining what vendors should be contracted for what amount of savings.	Ameren <u>ComEd</u> <u>ICC Staff</u> <u>NRDC</u> <u>IPA</u>		
85	6	Failure of third party EE vendors to perform will likely not trigger a contingency event pursuant to Section 16-111.5(e)(5)(ii), and instead will be handled by day-ahead balancing pursuant to Section 16-111.5(e)(5)(iii) (similar to other imbalances, such as oversupply).	CUB ICC Staff IPA		

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86	6	The IPA and utilities have existing mechanisms and strategies for addressing generator default on supply contracts and these mechanisms and strategies should be applied to EE vendors to the extent practicable.	CUB		
87	6	Utilities should only sign pay for performance contracts with vendors to minimize ratepayer risk if a vendor is unable to fulfill its savings obligation under the contract.	CUB		
88	6-2	The utility has an obligation to prudently management the contracts for vendors that the utility is not responsible for selecting.		Ameren	
89	7	There should be a grace period for non-consensus IL-TRM updates and NTG changes.	AG NRDC	Ameren ICC Staff	
90	7	Cost-ineffective EE programs should be dropped.	AG Ameren ComEd NRDC ICC Staff	CUB	IPA
		<u>If program becomes cost-ineffective during life of program, then should be dropped.</u>	AG NRDC	Ameren	
		<u>Cost-ineffective programs should be dropped during proceeding.</u>			
		<u>Need clear set of rules for determining whether to drop program.</u>	Ameren		
91	7	Some degree of flexibility in implementation of Section 16-111.5B EE programs could be allowed.	AG Ameren ComEd ICC Staff IPA NRDC	CUB	
92	7	There is no need for adjustments to the Section 16-111.5B energy savings goals since there are no penalties and if the IL-TRM values are deemed.	Ameren ComEd CUB ICC Staff	AG NRDC	
93	7	EE rider reconciliation proceedings are the appropriate venues for reviewing adjustments.	CUB ICC Staff		
94	7	A straightforward NTG framework providing for prospective deemed values <u>(not necessarily for all three years)</u> would ensure the highest degree of productivity and least cost to ratepayers.	Ameren ComEd		
95	7	<u>Vendors should not be held accountable to changes in values or the market after a program has already been determined to be cost-effective.</u>	Ameren CUB		

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96	8.3	Section 16-111.5B EE programs should be managed by the utilities as a portfolio.	AG Ameren ComEd NRDC	CUB ComEd Ameren	
		Excess 8-103 funds should be allowed to be used on 16-111.5B programs toward the end of the year (e.g., SB DI). Savings allocation would first count toward the 16-111.5B program goal approved in the IPA procurement docket, and excess would count toward 8-103 goal.	Ameren ComEd NRDC		IPA
97	8	Funding can be shifted between Sections 8-103 and 16-111.5B EE portfolios.	AG Ameren NRDC	ComEd CUB ICC Staff	IPA
98	8	Funding can be shifted between the Commission-approved Section 16-111.5B EE programs.	AG Ameren ComEd ICC Staff NRDC	CUB	IPA
99	8	Funding should not be shifted amongst the Section 16-111.5B EE programs.	Ameren CUB	AG ComEd NRDC	IPA
100	8.1	If approved by the Commission, the Section 16-111.5B funding for each EE program can be increased for overachieving EE programs and/or decreased for underachieving EE programs.	AG Ameren CUB ComEd ICC Staff NRDC		
		Program funding budgets may exceed the amounts specified in the procurement plan filings if the programs are overachieving the savings amount specified in the procurement plan filings.	AG Ameren CUB ComEd ICC Staff NRDC		
		Under the pay for performance concept, on a program basis, rather than given a specific savings, the ICC could authorize on a program basis a maximum savings and dollar range.			
		The Commission may authorize on a program basis an expected spending level and the spending level cap.	Ameren	CUB	
		On a program by program basis, the Commission may authorize a range above a budgeted program amount to allow for operational flexibility.	Ameren ComEd CUB ICC Staff NRDC		

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101	9	The Commission can consider additional criteria (e.g., Section 16-111.5B(a)(3)(D)-(E)) beyond cost-effectiveness in approving programs proposed by the IPA.	ICC Staff CUB?	AG NRDC	IPA
		The Commission can consider additional criteria (e.g., bidder reputability) beyond cost-effectiveness in approving programs proposed by the IPA.	ICC Staff		
102	9	The Total Resource Cost (“TRC”) test should be calculated at the program or measure level.	Ameren ComEd CUB ICC Staff IPA NRDC	AG NRDC	ComEd
103	9	The Total Resource Cost (“TRC”) test should be calculated at the portfolio level for Section 16-111.5B EE programs.	AG Ameren NRDC	ComEd CUB ICC Staff IPA Ameren	
104	9	The utilities should provide public access to the Total Resource Cost (“TRC”) test screening tools.	AG Ameren CUB IPA NRDC		
105	10	Section 16-111.5B(a)(3)(D) can be interpreted as the Utility Cost Test (“UCT”).	AG Ameren ComEd ICC Staff NRDC		CUB IPA
106	10	Section 16-111.5B(a)(3)(D) should be used by the utilities to screen programs.	ComEd ICC Staff	AG Ameren CUB NRDC	
107	10	Section 16-111.5B(a)(3)(D) should be calculated for each program.	Ameren ComEd CUB ICC Staff NRDC	CUB	IPA
108	10	Section 16-111.5B(a)(3)(D) should be calculated only for the portfolio.	CUB	ComEd ICC Staff	
109	10	Section 16-111.5B(a)(3)(D) can be interpreted as the Ratepayer Impact Measure (“RIM”) test.	Ameren	AG ComEd ICC Staff NRDC	
110	10	Section 16-111.5B(a)(3)(E) can be interpreted as the Total Resource Cost (“TRC”) test.	AG ICC Staff NRDC Ameren		Ameren

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111	10	Section 16-111.5B(a)(3)(E) can be interpreted as the Cost of Conserved Energy (“CCE”).	ComEd ICC Staff	NRDC AG	Ameren
112	10	Section 16-111.5B(a)(3)(E) can be interpreted as the Utility Cost Test (“UCT”).	Ameren	ICC Staff	
113	10.1	The Commission should determine how the additional information provided pursuant to Section 16-111.5B(a)(3)(D)-(E) should be used (i.e., litigate).	AG Ameren ComEd CUB IPA ICC Staff NRDC		

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II. Post-Workshop Section 16-111.5B Energy Efficiency Questions

Coordination of Energy Efficiency Programs

1. Is it feasible for the energy efficiency (“EE”) programs and measures procured by the Illinois Power Agency (“IPA”) pursuant to Section 16-111.5B¹ to include expansions of Section 8-103² EE programs and measures? If yes, please explain how, describe the benefits and costs of doing so, and explain whether expansions of Section 8-103 EE programs and measures should be included in IPA procurements of EE pursuant to Section 16-111.5B.
 - 1.1. Should the Section 16-111.5B EE programs be limited to new or different EE programs than those included in a utility’s Section 8-103 EE portfolio? What are the benefits and costs of such an approach?
2. Should expansion of existing Section 8-103 EE programs under Section 16-111.5B also include expansion of DCEO’s Section 8-103 EE programs? If yes, please explain how and describe the benefits and costs of such an approach.
3. Given the existing EE statutes, should the Commission treat Sections 8-103 (EEPS) and 16-111.5B (IPA) EE portfolios as *separate* portfolios (*e.g.*, separate EE goals, separate budgets, separate sets of standards) or as a *combined* portfolio (*e.g.*, single EE goal, single budget, single set of harmonized standards)? Please explain which approach (*i.e.*, separate or combined EE portfolios) is preferred and provide rationale.
 - 3.1. How would the preferred approach (*i.e.*, separate or combined EE portfolios) actually work in practice (in terms of EE evaluation, tracking, reporting, portfolio administration, goals, banking, flexibility, merged or separate budget, and other overlap with Section 8-103)? Please be very specific.
 - 3.2. Under what circumstances (if any) could you support the alternative approach (*i.e.*, separate or combined EE portfolios), and how would the alternative approach actually work in practice (in terms of EE evaluation, tracking, reporting, portfolio administration, goals, banking, flexibility, merged or separate budget, and other overlap with Section 8-103)? Please be specific.

¹ 220 ILCS 5/16-111.5B

² 220 ILCS 5/8-103

Procurement of Energy Efficiency Programs

4. How should EE programs be procured by the IPA?
 - 4.1. For example, should the IPA procurement allow for multi-year EE programs? Can the number of years that the utilities propose for IPA EE programs be flexible (1, 2, 3, 4 or 5 years)?
 - 4.2. How should payments be structured?
5. How should Section 16-111.5B EE programs be evaluated (*e.g.*, using IL-TRM in effect at time of submission, using IL-TRM in effect at time of implementation, deemed NTG) and what is appropriate forum for review (*e.g.*, docketed proceeding, SAG)?
 - 5.1. Do EE programs and measures procured by the IPA pursuant to Section 16-111.5B *require* evaluation, measurement and verification? If yes, please answer the following as well:
 - 5.1.1. Should assessments of IPA EE programs be included as part of the work done assessing Section 8-103 EE programs and measures through the Technical Reference Manual (“TRM”)? Should the processes now completed for the evaluation of Section 8-103 EE programs, including the TRM and net-to-gross (“NTG”) ratio development, also be done for Section 16-111.5B EE programs?
 - 5.1.2. Should the same NTG ratios and savings values, methodologies and assumptions be applied to both Section 8-103 EE programs and Section 16-111.5B EE programs?
6. Is it reasonable to hold utilities (or third party vendors) accountable for annual EE savings goals (EE program-level or portfolio-level goals) established pursuant to Section 16-111.5B?
 - 6.1. How should failure of any party to fulfill its Section 16-111.5B obligations be dealt with in the context of Section 16-111.5B EE goals, budgets, and affected supply requirements³?
 - 6.2. What are the consequences, if any, should an ex-post evaluation of an EE program or measure procured by the IPA pursuant to Section 16-111.5B fail to show the expected savings?

³ Please note that item (5) under subsection (a) of Section 16-111.5B states:

(5) Pursuant to paragraph (4) of subsection (d) of Section 16-111.5 of this Act, the Commission shall also approve the energy efficiency programs and measures included in the procurement plan, including the annual energy savings goal, if the Commission determines they fully capture the potential for all achievable cost-effective savings, to the extent practicable, and otherwise satisfy the requirements of Section 8-103 of this Act.

In the event the Commission approves the procurement of additional energy efficiency, it shall reduce the amount of power to be procured under the procurement plan to reflect the additional energy efficiency and shall direct the utility to undertake the procurement of such energy efficiency, which shall not be subject to the requirements of subsection (e) of Section 16-111.5 of this Act. The utility shall consider input from the Agency and interested stakeholders on the procurement and administration process.

220 ILCS 5/16-111.5B(a)(5).

7. Can utilities and third party vendors adjust (EE program and portfolio) goals or budgets after the IPA order but prior to implementation reflecting changes in values and the market given the over one year time lag between RFP submission and implementation? If yes, please answer the following as well:
 - 7.1. Under what circumstances can the utilities and third party vendors make such adjustments? Please be specific.
 - 7.2. What guidelines or rules should govern how such adjustments are made? Please be specific.
 - 7.3. What is the appropriate forum for review (*e.g.*, docketed proceeding, SAG) and approval (*e.g.*, docketed proceeding) of such adjustments, if any?
 - 7.4. Should previously approved EE programs that undergo goal or budget adjustments after approval be rescreened prior to implementation with revised cost-effectiveness estimates submitted to the IPA and the Commission? What should happen if the revised EE program goal (and budget) results in the EE program screening as cost-ineffective?

Energy Efficiency Program Management

8. What type and amount of flexibility is allowed or appropriate for EE programs approved in an IPA procurement plan under Section 16-111.5B (for one year, and for multiple years, and flexibility between the Sections 16-111.5B and 8-103 EE portfolios)?
 - 8.1. For example, can or should resources be transferred between and among Section 16-111.5B EE programs in order to maximize cost-effective savings?
 - 8.2. Can or should resources be transferred between the Section 16-111.5B EE portfolio and the Section 8-103 EE portfolio in order to maximize cost-effective savings?

Cost-Effectiveness of Energy Efficiency Programs and Measures

9. What criteria of cost-effectiveness is appropriate for EE programs and measures procured by the IPA pursuant to Section 16-111.5B?
10. What is the meaning of 220 ILCS 5/16-111.5B(a)(3)(D)-(E) in terms of which statistics or cost-effectiveness tests should be used to comply with each of the two requirements? Please be specific.
 - (D) Analysis showing that the new or expanded cost-effective EE programs or measures would lead to a reduction in the overall cost of electric service.
 - (E) Analysis of how the cost of procuring additional cost-effective EE measures compares over the life of the measures to the prevailing cost of comparable supply.
- 10.1. How should the additional information required of the utilities in the IPA's procurement of EE programs and measures under Section 16-111.5B(a)(3)(D)-(E) be used? For example, should this additional information be used to exclude EE programs from IPA consideration?

III. Sections 8-103 and 16-111.5B Energy Efficiency Timeline

Year	Month	EPY	Section 16-111.5B	Section 16-111.5B	Section 8-103 Plan Filing	TRM Update	EM&V
2012	June	EPY5					
2012	July	EPY5	Bids & EE Assessment submitted to IPA for PY6	Bids & EE Assessment July 15 th (or other date determined by ICC or IPA)			
2012	August	EPY5	IPA Releases 2013 Draft Procurement Plan Mid August	Draft Procurement Plan August 15 th or other date determined by ICC			
2012	September	EPY5	Comments on Draft Plan Due	Comments on Draft Plan Due 30 days after Posting Draft Plan (September 15 th)			
2012	October	EPY5	Procurement Plan filed with the ICC	Procurement Plan filed with the ICC within 14 days after Comments			
2012	November	EPY5		ALJ PO in Procurement Docket historically released around November 20 th , BOEs and RBOEs follow.			Draft EPY4 Evaluations
2012	December	EPY5	Commission Order in Procurement Docket for PY6	Commission Order in Procurement Docket, within 90 days after IPA files procurement plan with ICC, historically around December 20 th			
2013	January	EPY5	RFP for 3rd Party Vendors released end January for PY7, (PY8, PY9)	RFP for 3rd Party Vendors released end January for PY7, (PY8, PY9)			
2013	February	EPY5					
2013	March	EPY5	3rd Party Vendor Proposals due Mid-March for PY7, (PY8, PY9)	3rd Party Vendor Proposals due Mid-March for PY7, (PY8, PY9)		TRM#2 filed with ICC by March 1 (used in 3-year plan filing, effective for EPY6)	
2013	April	EPY5					
2013	May	EPY5					
2013	June	EPY6					
2013	July	EPY6	Bids & EE Assessment submitted to IPA for PY7, (PY8, PY9)	Bids & EE Assessment July 15 th (or other date determined by ICC or IPA)			
2013	August	EPY6	IPA Releases 2014 Draft Procurement Plan Mid August	Draft Procurement Plan August 15 th or other date determined by ICC			
2013	September	EPY6	Comments on Draft Plan Due	Comments on Draft Plan Due 30 days after Posting Draft Plan (September 15 th)	Electric 3-Year Plan (PY789) Filing (using TRM#2)		

Year	Month	EPY	Section 16-111.5B	Section 16-111.5B	Section 8-103 Plan Filing	TRM Update	EM&V
2013	October	EPY6	Procurement Plan filed with the ICC	Procurement Plan filed with the ICC within 14 days after Comments			
2013	November	EPY6		ALJ PO in Procurement Docket historically released around November 20 th , BOEs and RBOEs follow.			Draft EPY5 Evaluations
2013	December	EPY6	Commission Order in Procurement Docket for PY7	Commission Order in Procurement Docket, within 90 days after IPA files procurement plan with ICC, historically around December 20 th			
2014	January	EPY6	RFP for 3rd Party Vendors released end January for PY8	RFP for 3rd Party Vendors released end January for PY8	ICC Order in 8-103 Docket within 5 months after the EE plan's submission		
2014	February	EPY6			Commission Order in Section 8-103(f) Docket		
2014	March	EPY6	3rd Party Vendor Proposals due Mid-March for PY8, (PY9, PY10)	3rd Party Vendor Proposals due Mid-March for PY8, (PY9, PY10)		TRM#3 filed with the ICC by March 1 (effective for EPY7)	
2014	April	EPY6					
2014	May	EPY6					
2014	June	EPY7					
2014	July	EPY7	Bids & EE Assessment submitted to IPA for PY8, (PY9, PY10)	Bids & EE Assessment July 15 th (or other date determined by ICC or IPA)			
2014	August	EPY7	IPA Releases 2015 Draft Procurement Plan Mid August	Draft Procurement Plan August 15 th or other date determined by ICC			
2014	September	EPY7	Comments on Draft Plan Due	Comments on Draft Plan Due 30 days after Posting Draft Plan (September 15 th)			
2014	October	EPY7	Procurement Plan filed with the ICC	Procurement Plan filed with the ICC within 14 days after Comments			
2014	November	EPY7		ALJ PO in Procurement Docket historically released around November 20 th , BOEs and RBOEs follow.			Draft EPY6 Evaluations
2014	December	EPY7	Commission Order in Procurement Docket for PY8	Commission Order in Procurement Docket, within 90 days after IPA files procurement plan with ICC, historically around December 20 th			

Year	Month	EPY	Section 16-111.5B	Section 16-111.5B	Section 8-103 Plan Filing	TRM Update	EM&V
2015	January	EPY7	RFP for 3rd Party Vendors released end January for PY9	RFP for 3rd Party Vendors released end January for PY9			
2015	February	EPY7					
2015	March	EPY7	3rd Party Vendor Proposals due Mid-March for PY9, (PY10, PY11)	3rd Party Vendor Proposals due Mid-March for PY9, (PY10, PY11)		TRM#4 filed with the ICC by March 1 (effective for EPY8)	
2015	April	EPY7					
2015	May	EPY7					
2015	June	EPY8					
2015	July	EPY8	Bids & EE Assessment submitted to IPA for PY9, (PY10, PY11)	Bids & EE Assessment July 15 th (or other date determined by ICC or IPA)			
2015	August	EPY8	IPA Releases 2016 Draft Procurement Plan Mid August	Draft Procurement Plan August 15 th or other date determined by ICC			
2015	September	EPY8	Comments on Draft Plan Due	Comments on Draft Plan Due 30 days after Posting Draft Plan (September 15 th)			
2015	October	EPY8	Procurement Plan filed with the ICC	Procurement Plan filed with the ICC within 14 days after Comments			
2015	November	EPY8		ALJ PO in Procurement Docket historically released around November 20 th , BOEs and RBOEs follow.			Draft EPY7 Evaluations
2015	December	EPY8	Commission Order in Procurement Docket for PY9	Commission Order in Procurement Docket, within 90 days after IPA files procurement plan with ICC, historically around December 20 th			
2016	January	EPY8	RFP for 3rd Party Vendors released end January for PY10	RFP for 3rd Party Vendors released end January for PY10			
2016	February	EPY8					
2016	March	EPY8	3rd Party Vendor Proposals due Mid-March for PY10, (PY11, PY12)	3rd Party Vendor Proposals due Mid-March for PY10, (PY11, PY12)		TRM#5 filed with the ICC by March 1 (effective for EPY9)	
2016	April	EPY8					
2016	May	EPY8					
2016	June	EPY9					

Year	Month	EPY	Section 16-111.5B	Section 16-111.5B	Section 8-103 Plan Filing	TRM Update	EM&V
2016	July	EPY9	Bids & EE Assessment submitted to IPA for PY10, (PY11, PY12)	Bids & EE Assessment July 15 th (or other date determined by ICC or IPA)			
2016	August	EPY9	IPA Releases 2017 Draft Procurement Plan Mid August	Draft Procurement Plan August 15 th or other date determined by ICC			
2016	September	EPY9	Comments on Draft Plan Due	Comments on Draft Plan Due 30 days after Posting Draft Plan (September 15 th)	Electric 3-Year Plan (PY10,11,12) Filing (using TRM#5)		
2016	October	EPY9	Procurement Plan filed with the ICC	Procurement Plan filed with the ICC within 14 days after Comments			
2016	November	EPY9		ALJ PO in Procurement Docket historically released around November 20 th , BOEs and RBOEs follow.			Draft EPY8 Evaluations
2016	December	EPY9	Commission Order in Procurement Docket for PY10	Commission Order in Procurement Docket, within 90 days after IPA files procurement plan with ICC, historically around December 20 th			
2017	January	EPY9	RFP for 3rd Party Vendors released end January for PY11	RFP for 3rd Party Vendors released end January for PY11	ICC Order in 8-103 Docket within 5 months after the EE plan's submission		
2017	February	EPY9			Commission Order in Section 8-103(f) Docket		
2017	March	EPY9	3rd Party Vendor Proposals due Mid-March for PY11, (PY12, PY13)	3rd Party Vendor Proposals due Mid-March for PY11, (PY12, PY13)		TRM#6 filed with the ICC by March 1 (effective for EPY10)	
2017	April	EPY9					
2017	May	EPY9					
2017	June	EPY10					

IV. Statutory Provisions

220 ILCS 5/16-111.5B;

220 ILCS 5/8-103;

220 ILCS 5/8-103A;

20 ILCS 3855/1-10;

220 ILCS 5/16-111.5(d)-(e)

<http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=022000050HArt%2E+XVI&ActID=1277&ChapterID=23&SeqStart=35800000&SeqEnd=40900000> (Accessed March 22, 2013)

220 ILCS 5/16-111.5B

Sec. 16-111.5B. Provisions relating to energy efficiency procurement.

(a) Beginning in 2012, procurement plans prepared pursuant to Section 16-111.5 of this Act shall be subject to the following additional requirements:

(1) The analysis included pursuant to paragraph (2) of subsection (b) of Section 16-111.5 shall also include the impact of energy efficiency building codes or appliance standards, both current and projected.

(2) The procurement plan components described in subsection (b) of Section 16-111.5 shall also include an assessment of opportunities to expand the programs promoting energy efficiency measures that have been offered under plans approved pursuant to Section 8-103 of this Act or to implement additional cost-effective energy efficiency programs or measures.

(3) In addition to the information provided pursuant to paragraph (1) of subsection (d) of Section 16-111.5 of this Act, each Illinois utility procuring power pursuant to that Section shall annually provide to the Illinois Power Agency by July 15 of each year, or such other date as may be required by the Commission or Agency, an assessment of cost-effective energy efficiency programs or measures that could be included in the procurement plan. The assessment shall include the following:

(A) A comprehensive energy efficiency potential study for the utility's service territory that was

completed within the past 3 years.

(B) Beginning in 2014, the most recent analysis submitted pursuant to Section 8-103A of this Act and approved by the Commission under subsection (f) of Section 8-103 of this Act.

(C) Identification of new or expanded cost-effective energy efficiency programs or measures that are incremental to those included in energy efficiency and demand-response plans approved by the Commission pursuant to Section 8-103 of this Act and that would be offered to all retail customers whose electric service has not been declared competitive under Section 16-113 of this Act and who are eligible to purchase power and energy from the utility under fixed-price bundled service tariffs, regardless of whether such customers actually do purchase such power and energy from the utility.

(D) Analysis showing that the new or expanded cost-effective energy efficiency programs or measures would lead to a reduction in the overall cost of electric service.

(E) Analysis of how the cost of procuring additional cost-effective energy efficiency measures compares over the life of the measures to the prevailing cost of comparable supply.

(F) An energy savings goal, expressed in megawatt-hours, for the year in which the measures will be implemented.

(G) For each expanded or new program, the estimated amount that the program may reduce the agency's need to procure supply.

In preparing such assessments, a utility shall conduct an annual solicitation process for purposes of requesting proposals from third-party vendors, the results of which shall be provided to the Agency as part of the assessment, including documentation of all bids received. The utility shall develop requests for proposals consistent with the manner in which it develops requests for proposals under plans approved pursuant to Section 8-103 of this Act, which considers input from the Agency and interested stakeholders.

(4) The Illinois Power Agency shall include in the procurement plan prepared pursuant to paragraph (2) of

subsection (d) of Section 16-111.5 of this Act energy efficiency programs and measures it determines are cost-effective and the associated annual energy savings goal included in the annual solicitation process and assessment submitted pursuant to paragraph (3) of this subsection (a).

(5) Pursuant to paragraph (4) of subsection (d) of Section 16-111.5 of this Act, the Commission shall also approve the energy efficiency programs and measures included in the procurement plan, including the annual energy savings goal, if the Commission determines they fully capture the potential for all achievable cost-effective savings, to the extent practicable, and otherwise satisfy the requirements of Section 8-103 of this Act.

In the event the Commission approves the procurement of additional energy efficiency, it shall reduce the amount of power to be procured under the procurement plan to reflect the additional energy efficiency and shall direct the utility to undertake the procurement of such energy efficiency, which shall not be subject to the requirements of subsection (e) of Section 16-111.5 of this Act. The utility shall consider input from the Agency and interested stakeholders on the procurement and administration process.

(6) An electric utility shall recover its costs incurred under this Section related to the implementation of energy efficiency programs and measures approved by the Commission in its order approving the procurement plan under Section 16-111.5 of this Act, including, but not limited to, all costs associated with complying with this Section and all start-up and administrative costs and the costs for any evaluation, measurement, and verification of the measures, from all retail customers whose electric service has not been declared competitive under Section 16-113 of this Act and who are eligible to purchase power and energy from the utility under fixed-price bundled service tariffs, regardless of whether such customers actually do purchase such power and energy from the utility through the automatic adjustment clause tariff established pursuant to Section 8-103 of this Act, provided, however, that the limitations described in subsection (d) of that Section shall not apply to the

costs incurred pursuant to this Section or Section 16-111.7 of this Act.

(b) For purposes of this Section, the term "energy efficiency" shall have the meaning set forth in Section 1-10 of the Illinois Power Agency Act, and the term "cost-effective" shall have the meaning set forth in subsection (a) of Section 8-103 of this Act.

(Source: P.A. 97-616, eff. 10-26-11; 97-824, eff. 7-18-12.)

<http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=022000050HArt%2E+VIII&ActID=1277&ChapterID=23&SeqStart=9900000&SeqEnd=14800000> (Accessed March 22, 2013)

220 ILCS 5/8-103

Sec. 8-103. Energy efficiency and demand-response measures.

(a) It is the policy of the State that electric utilities are required to use cost-effective energy efficiency and demand-response measures to reduce delivery load. Requiring investment in cost-effective energy efficiency and demand-response measures will reduce direct and indirect costs to consumers by decreasing environmental impacts and by avoiding or delaying the need for new generation, transmission, and distribution infrastructure. It serves the public interest to allow electric utilities to recover costs for reasonably and prudently incurred expenses for energy efficiency and demand-response measures. As used in this Section, "cost-effective" means that the measures satisfy the total resource cost test. The low-income measures described in subsection (f)(4) of this Section shall not be required to meet the total resource cost test. For purposes of this Section, the terms "energy-efficiency", "demand-response", "electric utility", and "total resource cost test" shall have the meanings set forth in the Illinois Power Agency Act. For purposes of this Section, the amount per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For purposes of this Section, the total amount paid for electric service includes without limitation estimated amounts paid for supply, transmission, distribution, surcharges, and add-on-taxes.

(b) Electric utilities shall implement cost-effective energy efficiency measures to meet the following incremental annual energy savings goals:

- (1) 0.2% of energy delivered in the year commencing June 1, 2008;
- (2) 0.4% of energy delivered in the year commencing June 1, 2009;
- (3) 0.6% of energy delivered in the year commencing

June 1, 2010;

(4) 0.8% of energy delivered in the year commencing June 1, 2011;

(5) 1% of energy delivered in the year commencing June 1, 2012;

(6) 1.4% of energy delivered in the year commencing June 1, 2013;

(7) 1.8% of energy delivered in the year commencing June 1, 2014; and

(8) 2% of energy delivered in the year commencing June 1, 2015 and each year thereafter.

(c) Electric utilities shall implement cost-effective demand-response measures to reduce peak demand by 0.1% over the prior year for eligible retail customers, as defined in Section 16-111.5 of this Act, and for customers that elect hourly service from the utility pursuant to Section 16-107 of this Act, provided those customers have not been declared competitive. This requirement commences June 1, 2008 and continues for 10 years.

(d) Notwithstanding the requirements of subsections (b) and (c) of this Section, an electric utility shall reduce the amount of energy efficiency and demand-response measures implemented in any single year by an amount necessary to limit the estimated average increase in the amounts paid by retail customers in connection with electric service due to the cost of those measures to:

(1) in 2008, no more than 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;

(2) in 2009, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2008 or 1% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;

(3) in 2010, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009 or 1.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;

(4) in 2011, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2010 or 2% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007; and

(5) thereafter, the amount of energy efficiency and demand-response measures implemented for any single year shall be reduced by an amount necessary to limit the estimated average net increase due to the cost of these measures included in the amounts paid by eligible retail customers in connection with electric service to no more than the greater of 2.015% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007 or the incremental amount per kilowatthour paid for these measures in 2011.

No later than June 30, 2011, the Commission shall review the limitation on the amount of energy efficiency and demand-response measures implemented pursuant to this Section and report to the General Assembly its findings as to whether that limitation unduly constrains the procurement of energy efficiency and demand-response measures.

(e) Electric utilities shall be responsible for overseeing the design, development, and filing of energy efficiency and demand-response plans with the Commission. Electric utilities shall implement 100% of the demand-response measures in the plans. Electric utilities shall implement 75% of the energy efficiency measures approved by the Commission, and may, as part of that implementation, outsource various aspects of program development and implementation. The remaining 25% of those energy efficiency measures approved by the Commission shall be implemented by the Department of Commerce and Economic Opportunity, and must be designed in conjunction with the utility and the filing process. The Department may outsource development and implementation of energy efficiency measures. A minimum of 10% of the entire portfolio of cost-effective energy efficiency measures shall be procured from units of local government, municipal corporations, school districts, and community college districts. The Department shall coordinate the implementation of these measures.

The apportionment of the dollars to cover the costs to implement the Department's share of the portfolio of energy efficiency measures shall be made to the Department once the Department has executed rebate agreements, grants, or contracts for energy efficiency measures and provided supporting documentation for those rebate agreements, grants, and contracts to the utility. The Department is authorized to adopt any rules necessary and prescribe procedures in order to ensure compliance by applicants in carrying out the purposes of rebate agreements for energy efficiency measures implemented by the Department made under this Section.

The details of the measures implemented by the Department shall be submitted by the Department to the Commission in connection with the utility's filing regarding the energy efficiency and demand-response measures that the utility implements.

A utility providing approved energy efficiency and demand-response measures in the State shall be permitted to recover costs of those measures through an automatic adjustment clause tariff filed with and approved by the Commission. The tariff shall be established outside the context of a general rate case. Each year the Commission shall initiate a review to reconcile any amounts collected with the actual costs and to determine the required adjustment to the annual tariff factor to match annual expenditures.

Each utility shall include, in its recovery of costs, the costs estimated for both the utility's and the Department's

implementation of energy efficiency and demand-response measures. Costs collected by the utility for measures implemented by the Department shall be submitted to the Department pursuant to Section 605-323 of the Civil Administrative Code of Illinois, shall be deposited into the Energy Efficiency Portfolio Standards Fund, and shall be used by the Department solely for the purpose of implementing these measures. A utility shall not be required to advance any moneys to the Department but only to forward such funds as it has collected. The Department shall report to the Commission on an annual basis regarding the costs actually incurred by the Department in the implementation of the measures. Any changes to the costs of energy efficiency measures as a result of plan modifications shall be appropriately reflected in amounts recovered by the utility and turned over to the Department. The portfolio of measures, administered by both the utilities and the Department, shall, in combination, be designed to achieve the annual savings targets described in subsections (b) and (c) of this Section, as modified by subsection (d) of this Section.

The utility and the Department shall agree upon a reasonable portfolio of measures and determine the measurable corresponding percentage of the savings goals associated with measures implemented by the utility or Department.

No utility shall be assessed a penalty under subsection (f) of this Section for failure to make a timely filing if that failure is the result of a lack of agreement with the Department with respect to the allocation of responsibilities or related costs or target assignments. In that case, the Department and the utility shall file their respective plans with the Commission and the Commission shall determine an appropriate division of measures and programs that meets the requirements of this Section.

If the Department is unable to meet incremental annual performance goals for the portion of the portfolio implemented by the Department, then the utility and the Department shall jointly submit a modified filing to the Commission explaining the performance shortfall and recommending an appropriate course going forward, including any program modifications that may be appropriate in light of the evaluations conducted under item (7) of subsection (f) of this Section. In this case, the utility obligation to collect the Department's costs and turn over those funds to the Department under this subsection (e) shall continue only if the Commission approves the modifications to the plan proposed by the Department.

(f) No later than November 15, 2007, each electric utility shall file an energy efficiency and demand-response plan with the Commission to meet the energy efficiency and demand-response standards for 2008 through 2010. No later than October 1, 2010, each electric utility shall file an energy efficiency

and demand-response plan with the Commission to meet the energy efficiency and demand-response standards for 2011 through 2013. Every 3 years thereafter, each electric utility shall file, no later than September 1, an energy efficiency and demand-response plan with the Commission. If a utility does not file such a plan by September 1 of an applicable year, it shall face a penalty of \$100,000 per day until the plan is filed. Each utility's plan shall set forth the utility's proposals to meet the utility's portion of the energy efficiency standards identified in subsection (b) and the demand-response standards identified in subsection (c) of this Section as modified by subsections (d) and (e), taking into account the unique circumstances of the utility's service territory. The Commission shall seek public comment on the utility's plan and shall issue an order approving or disapproving each plan within 5 months after its submission. If the Commission disapproves a plan, the Commission shall, within 30 days, describe in detail the reasons for the disapproval and describe a path by which the utility may file a revised draft of the plan to address the Commission's concerns satisfactorily. If the utility does not refile with the Commission within 60 days, the utility shall be subject to penalties at a rate of \$100,000 per day until the plan is filed. This process shall continue, and penalties shall accrue, until the utility has successfully filed a portfolio of energy efficiency and demand-response measures. Penalties shall be deposited into the Energy Efficiency Trust Fund. In submitting proposed energy efficiency and demand-response plans and funding levels to meet the savings goals adopted by this Act the utility shall:

- (1) Demonstrate that its proposed energy efficiency and demand-response measures will achieve the requirements that are identified in subsections (b) and (c) of this Section, as modified by subsections (d) and (e).
- (2) Present specific proposals to implement new building and appliance standards that have been placed into effect.
- (3) Present estimates of the total amount paid for electric service expressed on a per kilowatthour basis associated with the proposed portfolio of measures designed to meet the requirements that are identified in subsections (b) and (c) of this Section, as modified by subsections (d) and (e).
- (4) Coordinate with the Department to present a portfolio of energy efficiency measures proportionate to the share of total annual utility revenues in Illinois from households at or below 150% of the poverty level. The energy efficiency programs shall be targeted to households with incomes at or below 80% of area median income.
- (5) Demonstrate that its overall portfolio of energy efficiency and demand-response measures, not including programs

covered by item (4) of this subsection (f), are cost-effective using the total resource cost test and represent a diverse cross-section of opportunities for customers of all rate classes to participate in the programs.

(6) Include a proposed cost-recovery tariff mechanism to fund the proposed energy efficiency and demand-response measures and to ensure the recovery of the prudently and reasonably incurred costs of Commission-approved programs.

(7) Provide for an annual independent evaluation of the performance of the cost-effectiveness of the utility's portfolio of measures and the Department's portfolio of measures, as well as a full review of the 3-year results of the broader net program impacts and, to the extent practical, for adjustment of the measures on a going-forward basis as a result of the evaluations. The resources dedicated to evaluation shall not exceed 3% of portfolio resources in any given year.

(g) No more than 3% of energy efficiency and demand-response program revenue may be allocated for demonstration of breakthrough equipment and devices.

(h) This Section does not apply to an electric utility that on December 31, 2005 provided electric service to fewer than 100,000 customers in Illinois.

(i) If, after 2 years, an electric utility fails to meet the efficiency standard specified in subsection (b) of this Section, as modified by subsections (d) and (e), it shall make a contribution to the Low-Income Home Energy Assistance Program. The combined total liability for failure to meet the goal shall be \$1,000,000, which shall be assessed as follows: a large electric utility shall pay \$665,000, and a medium electric utility shall pay \$335,000. If, after 3 years, an electric utility fails to meet the efficiency standard specified in subsection (b) of this Section, as modified by subsections (d) and (e), it shall make a contribution to the Low-Income Home Energy Assistance Program. The combined total liability for failure to meet the goal shall be \$1,000,000, which shall be assessed as follows: a large electric utility shall pay \$665,000, and a medium electric utility shall pay \$335,000. In addition, the responsibility for implementing the energy efficiency measures of the utility making the payment shall be transferred to the Illinois Power Agency if, after 3 years, or in any subsequent 3-year period, the utility fails to meet the efficiency standard specified in subsection (b) of this Section, as modified by subsections (d) and (e). The Agency shall implement a competitive procurement program to procure resources necessary to meet the standards specified in this Section as modified by subsections (d) and (e), with costs for those resources to be recovered in the same manner as products purchased through the procurement plan as provided in Section 16-111.5. The Director shall implement this requirement in connection with the procurement plan as provided in Section

16-111.5.

For purposes of this Section, (i) a "large electric utility" is an electric utility that, on December 31, 2005, served more than 2,000,000 electric customers in Illinois; (ii) a "medium electric utility" is an electric utility that, on December 31, 2005, served 2,000,000 or fewer but more than 100,000 electric customers in Illinois; and (iii) Illinois electric utilities that are affiliated by virtue of a common parent company are considered a single electric utility.

(j) If, after 3 years, or any subsequent 3-year period, the Department fails to implement the Department's share of energy efficiency measures required by the standards in subsection (b), then the Illinois Power Agency may assume responsibility for and control of the Department's share of the required energy efficiency measures. The Agency shall implement a competitive procurement program to procure resources necessary to meet the standards specified in this Section, with the costs of these resources to be recovered in the same manner as provided for the Department in this Section.

(k) No electric utility shall be deemed to have failed to meet the energy efficiency standards to the extent any such failure is due to a failure of the Department or the Agency.

(Source: P.A. 96-33, eff. 7-10-09; 96-159, eff. 8-10-09; 96-1000, eff. 7-2-10; 97-616, eff. 10-26-11; 97-841, eff. 7-20-12.)

220 ILCS 5/8-103A

Sec. 8-103A. Energy efficiency analysis. Beginning in 2013, an electric utility subject to the requirements of Section 8-103 of this Act shall include in its energy efficiency and demand-response plan submitted pursuant to subsection (f) of Section 8-103 an analysis of additional cost-effective energy efficiency measures that could be implemented, by customer class, absent the limitations set forth in subsection (d) of Section 8-103. In seeking public comment on the electric utility's plan pursuant to subsection (f) of Section 8-103, the Commission shall include, beginning in 2013, the assessment of additional cost-effective energy efficiency measures submitted pursuant to this Section. For purposes of this Section, the term "energy efficiency" shall have the meaning set forth in Section 1-10 of the Illinois Power Agency Act, and the term "cost-effective" shall have the meaning set forth in subsection (a) of Section 8-103 of this Act.

(Source: P.A. 97-616, eff. 10-26-11.)

20 ILCS 3855/1-10

Sec. 1-10. Definitions.

"Energy efficiency" means measures that reduce the amount of electricity or natural gas required to achieve a given end use.

"Total resource cost test" or "TRC test" means a standard that is met if, for an investment in energy efficiency or demand-response measures, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net present value of the total benefits of the program to the net present value of the total costs as calculated over the lifetime of the measures. A total resource cost test compares the sum of avoided electric utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures, as well as other quantifiable societal benefits, including avoided natural gas utility costs, to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side program, to quantify the net savings obtained by substituting the demand-side program for supply resources. In calculating avoided costs of power and energy that an electric utility would otherwise have had to acquire, reasonable estimates shall be included of financial costs likely to be imposed by future regulations and legislation on emissions of greenhouse gases.

(Source: P.A. 96-33, eff. 7-10-09; 96-159, eff. 8-10-09; 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10; 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-491, eff. 8-22-11; 97-616, eff. 10-26-11; 97-813, eff. 7-13-12.)

(220 ILCS 5/16-111.5)

Sec. 16-111.5. Provisions relating to procurement.

220 ILCS 5/16-111.5(d)

(d) Except as provided in subsection (j), the planning process shall be conducted as follows:

(1) Beginning in 2008, each Illinois utility procuring power pursuant to this Section shall annually provide a range of load forecasts to the Illinois Power Agency by July 15 of each year, or such other date as may be required by the Commission or Agency. The load forecasts shall cover the 5-year procurement planning period for the next procurement plan and shall include hourly data representing a high-load, low-load and expected-load scenario for the load of the eligible retail customers. The utility shall provide supporting data and assumptions for each of the scenarios.

(2) Beginning in 2008, the Illinois Power Agency shall prepare a procurement plan by August 15th of each year, or such other date as may be required by the Commission. The procurement plan shall identify the portfolio of demand-response and power and energy products to be procured. Cost-effective demand-response measures shall be procured as set forth in item (iii) of subsection (b) of this Section. Copies of the procurement plan shall be posted and made publicly available on the Agency's and Commission's websites, and copies shall also be provided to each affected electric utility. An affected utility shall have 30 days following the date of posting to provide comment to the Agency on the procurement plan. Other interested entities also may comment on the procurement plan. All comments submitted to the Agency shall be specific, supported by data or other detailed analyses, and, if objecting to all or a portion of the procurement plan, accompanied by specific alternative wording or proposals. All comments shall be posted on the Agency's and Commission's websites. During this 30-day comment period, the Agency shall hold at least one public hearing within each utility's service area for the purpose of receiving public comment on the procurement plan. Within 14 days following the end of the 30-day review period, the Agency shall revise the procurement plan as necessary based on the comments received and file the procurement plan with the Commission and post the procurement plan on the websites.

(3) Within 5 days after the filing of the procurement plan, any person objecting to the procurement plan shall file an objection with the Commission. Within 10 days after the filing, the Commission shall determine whether a hearing is necessary.

The Commission shall enter its order confirming or modifying the procurement plan within 90 days after the filing of the procurement plan by the Illinois Power Agency.

(4) The Commission shall approve the procurement plan, including expressly the forecast used in the procurement 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(e)

(e) The procurement process shall include each of the following components:

(1) Solicitation, pre-qualification, and registration of bidders. The procurement administrator shall disseminate information to potential bidders to promote a procurement event, notify potential bidders that the procurement administrator may enter into a post-bid price negotiation with bidders that meet the applicable benchmarks, provide supply requirements, and otherwise explain the competitive procurement process. In addition to such other publication as the procurement administrator determines is appropriate, this information shall be posted on the Illinois Power Agency's and the Commission's websites. The procurement administrator shall also administer the prequalification process, including evaluation of credit worthiness, compliance with procurement rules, and agreement to the standard form contract developed pursuant to paragraph (2) of this subsection (e). The procurement administrator shall then identify and register bidders to participate in the procurement event.

(2) Standard contract forms and credit terms and instruments. The procurement administrator, in consultation with the utilities, the Commission, and other interested parties and subject to Commission oversight, shall develop and provide standard contract forms for the supplier contracts that meet generally accepted industry practices. Standard credit terms and instruments that meet generally accepted industry practices shall be similarly developed. The procurement administrator shall make available to the Commission all written comments it receives on the contract forms, credit terms, or instruments. If the procurement administrator cannot reach agreement with the applicable electric utility as to the contract terms and conditions, the procurement administrator must notify the Commission of any disputed terms and the Commission shall resolve the dispute. The terms of the

contracts shall not be subject to negotiation by winning bidders, and the bidders must agree to the terms of the contract in advance so that winning bids are selected solely on the basis of price.

(3) Establishment of a market-based price benchmark.

As part of the development of the procurement process, the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor, shall establish benchmarks for evaluating the final prices in the contracts for each of the products that will be procured through the procurement process. The benchmarks shall be based on price data for similar products for the same delivery period and same delivery hub, or other delivery hubs after adjusting for that difference. The price benchmarks may also be adjusted to take into account differences between the information reflected in the underlying data sources and the specific products and procurement process being used to procure power for the Illinois utilities. The benchmarks shall be confidential but shall be provided to, and will be subject to Commission review and approval, prior to a procurement event.

(4) Request for proposals competitive procurement process. The procurement administrator shall design and issue a request for proposals to supply electricity in accordance with each utility's procurement plan, as approved by the Commission. The request for proposals shall set forth a procedure for sealed, binding commitment bidding with pay-as-bid settlement, and provision for selection of bids on the basis of price.

(5) A plan for implementing contingencies in the event of supplier default or failure of the procurement process to fully meet the expected load requirement due to insufficient supplier participation, Commission rejection of results, or any other cause.

(i) Event of supplier default: In the event of supplier default, the utility shall review the contract of the defaulting supplier to determine if the amount of supply is 200 megawatts or greater, and if there are more than 60 days remaining of the contract term. If both of these conditions are met, and the default results in termination of the contract, the utility shall immediately notify the Illinois Power Agency that a request for proposals must be issued to procure replacement power, and the procurement administrator shall run an additional procurement event. If the contracted supply of the defaulting supplier is less than 200 megawatts or there are less than 60 days remaining of the contract term, the utility shall procure power and energy from the applicable regional transmission organization market, including ancillary services, capacity, and day-ahead or real time energy, or both, for the duration of the contract term to replace the contracted supply; provided, however, that if a needed product is not available through the regional transmission organization market it shall

be purchased from the wholesale market.

(ii) Failure of the procurement process to fully meet the expected load requirement: If the procurement process fails to fully meet the expected load requirement due to insufficient supplier participation or due to a Commission rejection of the procurement results, the procurement administrator, the procurement monitor, and the Commission staff shall meet within 10 days to analyze potential causes of low supplier interest or causes for the Commission decision. If changes are identified that would likely result in increased supplier participation, or that would address concerns causing the Commission to reject the results of the prior procurement event, the procurement administrator may implement those changes and rerun the request for proposals process according to a schedule determined by those parties and consistent with Section 1-75 of the Illinois Power Agency Act and this subsection. In any event, a new request for proposals process shall be implemented by the procurement administrator within 90 days after the determination that the procurement process has failed to fully meet the expected load requirement.

(iii) In all cases where there is insufficient supply provided under contracts awarded through the procurement process to fully meet the electric utility's load requirement, the utility shall meet the load requirement by procuring power and energy from the applicable regional transmission organization market, including ancillary services, capacity, and day-ahead or real time energy or both; provided, however, that if a needed product is not available through the regional transmission organization market it shall be purchased from the wholesale market.

(6) The procurement process described in this subsection is exempt from the requirements of the Illinois Procurement Code, pursuant to Section 20-10 of that Code.

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AIC notes that the positions reflected here do not represent a final or legal representation of the Company’s positions and are therefore tentative and AIC reserves the right to state a different position as circumstances warrant.

I. Matrix of All CONSENSUS Issues Regarding Section 16-111.5B Energy Efficiency and Classification of Parties’ Positions on Each Issue (6-14-13, 4:30PM)

#	CONSENSUS Issue/Position regarding Section 16-111.5B EE (<u>not 8-103</u>)	Support	Oppose	Neutral
3	An “expansion” of a Section 8-103 EE program per Section 16-111.5B is not strictly defined and could include expanding the EE program in such a way as to facilitate tracking of the Section 16-111.5B portion of the expanded EE program.	Ameren ComEd CUB ICC Staff IPA NRDC		
4	It is feasible to include EE program expansions in IPA procurements. <u>(AIC: When different rules are used to develop, implement and evaluate the “expanded” program for the IPA versus an 8-103 program, it is not truly an expansion of the current program and separate rules, especially due to separate tracking and application of values, requires that that the “expansion” is treated as a separate program.)</u>	AG Ameren ComEd CUB ICC Staff IPA NRDC		
5	Due to timing problems, it may not be feasible to include expansion of Section 8-103 EE programs in IPA procurements during years in which there are no Section 8-103 EE programs that have been approved by the Commission.	AG Ameren CUB ComEd ICC Staff NRDC		
6	The utilities should include cost-effective expansions of the Section 8-103 EE programs in the annual EE assessment they submit to the IPA, unless Section 8-103 EE programs are already expected to achieve the maximum achievable cost-effective savings.	AG Ameren ComEd CUB NRDC		

#	CONSENSUS Issue/Position regarding Section 16-111.5B EE (not 8-103)	Support	Oppose	Neutral
7	To align the filing timelines across Sections 8-103 and 16-111.5B to facilitate including EE program expansions in the EE assessments the utilities submit to the IPA, the utilities and DCEO could file their next Section 8-103 EE plans with the Commission by July 1, 2016. (Need gas utility support). <u>(AIC: Subject to docket outcome whereby the IPA docket concludes December and the 8-103 docket may not be concluded until Feb or later subject to rehearing and compliance filings.)</u>	Ameren ComEd CUB ICC Staff NRDC		
10	The utilities cannot manage EE programs procured pursuant to Section 16-111.5B in the same way as they manage the Section 8-103 EE programs.	Ameren ComEd CUB ICC Staff NRDC		IPA
11	Evaluation of the Section 16-111.5B EE programs should be performed by the Section 8-103 EE program evaluators.	AG Ameren ComEd CUB ICC Staff NRDC		
12	Evaluation of Sections 8-103 and 16-111.5B EE programs should be coordinated.	Ameren ComEd CUB ICC Staff NRDC		
14	DCEO is allowed to offer EE programs under Section 16-111.5B.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
15 A	Expansion of DCEO's Section 8-103 EE programs should be included in the EE assessment that the utilities submit to the IPA per Section 16-111.5B, assuming cooperation from DCEO. (Still questioning contracting relationship with DCEO under Section 16-111.5B EE programs.)	AG Ameren ComEd CUB NRDC		
15 B	It would be appropriate for DCEO to bid programs into the utilities' annual EE assessments (RFP). (Still questioning contracting relationship with DCEO under Section 16-111.5B EE programs.)	Ameren ComEd CUB DCEO ICC Staff IPA NRDC		
16	Expansion of DCEO's Section 8-103 EE programs would need to be shown to be cost-effective per Section 16-111.5B requirements.	ComEd CUB ICC Staff IPA NRDC		Ameren

#	CONSENSUS Issue/Position regarding Section 16-111.5B EE (<u>not 8-103</u>)	Support	Oppose	Neutral
17	Sections 8-103 and 16-111.5B EE portfolios can be kept separate.	AG Ameren City of Chicago ComEd CUB ICC Staff NRDC		IPA
21	Savings from the Section 8-103 portion of an expanded EE program would count toward achievement of a utility's Section 8-103 savings goal.	AG Ameren ComEd CUB ICC Staff NRDC		IPA
23	Savings from the Section 16-111.5B portion of an expanded EE program would count toward achievement of a utility's Section 16-111.5B savings goal, not the Section 8-103 savings goal.	AG Ameren ComEd CUB ICC Staff NRDC		IPA
24	Banking policies would not overlap between Sections 8-103 and 16-111.5B.	Ameren ComEd CUB ICC Staff NRDC		
25	There is no need for banking under Section 16-111.5B.	Ameren ComEd CUB ICC Staff NRDC		
28	Sections 8-103 and 16-111.5B EE budgets would be kept separate.	AG Ameren ComEd CUB ICC Staff NRDC		
29	Funds approved pursuant to Section 16-111.5B could not be spent on EE programs that were not approved in the procurement plan docket.	Ameren ComEd CUB ICC Staff NRDC		
30	EE program expansions would be expanded in such a way as to facilitate utility tracking of the original Section 8-103 portion and the Section 16-111.5B portion of the expanded EE program. (not expanded in exactly the same manner)	Ameren ComEd CUB ICC Staff NRDC		

#	CONSENSUS Issue/Position regarding Section 16-111.5B EE (not 8-103)	Support	Oppose	Neutral
32	For general reporting purposes, it would be appropriate to report each Section's EE goals, achieved savings, and budgets together to show the impact of the utilities' EE portfolios across the state, in addition to separately, so that progress can be tracked separately for each EE portfolio. <u>(AIC does not agree with reporting the two portfolios savings together in the same report.)</u>	AG Ameren ComEd CUB ICC Staff NRDC	Ameren	
33 B	Section 16-111.5B EE evaluation reports should be provided to the Commission in a public docket, either reconciliation proceeding or savings docket. <u>Filing in IPA docket is acceptable.</u>	AG CUB ICC Staff NRDC		Ameren ComEd IPA
34 A	If the IL-TRM in effect at the time of bid submittal is used for evaluation purposes for the Section 16-111.5B EE programs, then the evaluators will need to perform savings verification using two different IL-TRMs, one for the Section 16-111.5B EE measures (or Section 16-111.5B portion of the expanded EE program) and the other for the Section 8-103 EE measures (or Section 8-103 portion of the expanded EE program).	Ameren ComEd CUB ICC Staff		
34 C	Expanded 16-111.5B portions of the expanded EE programs should <u>(AIC: operate under the same rules as the third party vendor proposals have deemed savings values (NTG and TRM) as)</u> submitted through the annual assessment (RFP process).	Ameren ComEd CUB ICC Staff NRDC		
37	Sampling in evaluation (e.g., NTG) could occur on an expanded EE program-level basis, or could be based on each component of the expanded EE program (the Section 8-103 portion and the Section 16-111.5B portion of the expanded EE program), depending on the specific circumstance.	Ameren ComEd CUB ICC Staff		
38	Ex-post cost-effectiveness analysis should be performed for the Section 16-111.5B EE programs <u>(AIC: But not for the purposes of determining prudence)</u> .	AG Ameren ComEd CUB ICC Staff NRDC		IPA
39 A	Ex-post cost-effectiveness analysis should be performed using actual participation and the original IL-TRM <u>(AIC: and NTG) used in modeling for the IPA submission.</u>	Ameren ComEd CUB ICC Staff NRDC		
39 B	Ex-post cost-effectiveness analysis should be performed using actual participation and the best available information (e.g., updated NTG).	ComEd ICC Staff		Ameren CUB
40	There must be a balance in the evaluation of Section 16-111.5B EE programs between the degree of evaluation and the size of the program, wherein larger programs justify more complete evaluations.	AG Ameren ComEd ICC Staff NRDC		CUB

#	CONSENSUS Issue/Position regarding Section 16-111.5B EE (not 8-103)	Support	Oppose	Neutral
41	To the extent parties are concerned with EE replacing power purchase needs under Section 16-111.5B, it would be appropriate for the IPA and procurement administrator in consultation with the utilities and/or evaluators to attempt to estimate the amount that the Section 16-111.5B EE programs reduce the IPA's need to procure supply, to serve as a check on the utilities' original estimate required by Section 16-111.5B(a)(3)(G), and to provide useful information to customers.	AG Ameren CUB ICC Staff NRDC		ComEd IPA
43	Utilities are not subject to penalties for failure to achieve the annual Section 16-111.5B energy savings goal.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
46	In general, the IL-TRM should be used for Section 16-111.5B EE programs.	AG Ameren ComEd CUB ICC Staff NRDC		IPA
47	There may be special circumstances where deviation from the IL-TRM may be appropriate; the utility/vendor should have the option to make the case for the special circumstance. However, the IL-TRM values must also be provided for comparison purposes.	AG Ameren CUB ComEd ICC Staff NRDC		IPA
54	Multi-year EE procurement is allowed in the context of the annual EE procurement plan proceeding.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
55 B	At this time, restricting multi-year EE procurements to three years and allowing deeming of IL-TRM used at time of bid submission would be appropriate for EE programs approved pursuant to Section 16-111.5B, including the Section 16-111.5B portion of an expanded EE program.	AG Ameren ComEd CUB ICC Staff		
55 C	Utilities should include bid reviews, <u>(AIC; if performed)</u> in their EE assessments submitted to the IPA (similar to ComEd last year) (would be confidential).	AG Ameren ComEd CUB ICC Staff NRDC		
55 D	Utilities should include all bids in their EE assessments submitted to the IPA (similar to Ameren last year).	Ameren ComEd CUB ICC Staff NRDC		

#	CONSENSUS Issue/Position regarding Section 16-111.5B EE (not 8-103)	Support	Oppose	Neutral
56	It's appropriate to structure Section 16-111.5B EE contracts as "pay-for-performance".	AG Ameren ComEd CUB ICC Staff IPA NRDC		
57	Utilities should have flexibility to structure Section 16-111.5B EE contracts in a manner which best balances the potentially competing objectives of making the procurement process attractive to as many bidders as possible and providing confidence that the savings which are proposed/bid will actually be delivered.	AG Ameren ComEd CUB ICC Staff NRDC		
58	Parties should work toward agreeing upon a set of principles for Section 16-111.5B EE contract design.	CUB		
59	<u>There are n</u> No legal requirement for Section 16-111.5B EE contracts to be structured around a "pay-for performance" structure.	AG Ameren ComEd ICC Staff NRDC		IPA CUB
63	IL-TRM values "in effect" at time of bid submission should be deemed for the length of time the Commission approves the Section 16-111.5B EE program, including the Section 16-111.5B portion of an expanded EE program, where "in effect" means the most recent Commission-approved IL-TRM.	AG Ameren ComEd CUB ICC Staff		NRDC
66	There is prudence accountability in a docketed proceeding but no docketed proceeding for savings goals is required per Section 16-111.5B.	Ameren ComEd ICC Staff IPA NRDC		CUB
69	Expenditures on evaluation should be capped for the Section 16-111.5B EE programs as they are for the Section 8-103 EE programs.	Ameren ComEd CUB ICC Staff NRDC		
79	Section 16-111.5B EE programs may be included in the IL-TRM update process.	AG Ameren ComEd CUB ICC Staff NRDC		IPA
84	Section 16-111.5B does not require the utility to be responsible for determining what vendors should be contracted for what amount of savings.	Ameren ComEd CUB ICC Staff IPA NRDC		

#	CONSENSUS Issue/Position regarding Section 16-111.5B EE (not 8-103)	Support	Oppose	Neutral
90 C	Cost-ineffective programs should be dropped during proceeding.	Ameren ComEd CUB ICC Staff IPA NRDC		
10 0C	Under the pay for performance contract, the ICC could authorize on a program basis, a maximum energy savings achieved and spending cap.	AG Ameren ComEd ICC Staff NRDC		CUB
10 0D	The Commission may authorize on a program basis an expected spending level and the spending level cap.	AG Ameren ComEd ICC Staff		CUB
10 2	The Total Resource Cost (“TRC”) test should be calculated at the program or measure level.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
10 5	Section 16-111.5B(a)(3)(D) can be interpreted as the Utility Cost Test (“UCT”).	AG Ameren ComEd ICC Staff NRDC		CUB IPA
10 7	Section 16-111.5B(a)(3)(D) should be calculated for each program.	Ameren ComEd CUB ICC Staff NRDC		IPA
11 0	Section 16-111.5B(a)(3)(E) can be interpreted as the Total Resource Cost (“TRC”) test.	AG Ameren ICC Staff NRDC		ComEd
11 3	The Commission should determine how the additional information provided pursuant to Section 16-111.5B(a)(3)(D)-(E) should be used (i.e., litigate).	AG Ameren ComEd CUB ICC Staff IPA NRDC		

II. Matrix of All Issues (Consensus/Non-Consensus) Regarding Section 16-111.5B Energy Efficiency and Classification of Parties’ Positions on Each Issue (6-14-13, 4:30PM)

Yellow Highlight=Consensus

Note that AIC provided comments on the highlighted consensus items I previous section and this is not repeated here. Therefore any comments from this point forward are limited to non-highlighted and non-consensus items.

#	Issue/Position regarding Section 16-111.5B EE only (<u>not</u> 8-103 EE)	Support	Oppose	Neutral
1	By definition, an “expansion” of a Section 8-103 EE program per Section 16-111.5B means that (1) the expanded portion of the EE program cannot be uniquely distinguished and able to be tracked separately from the Section 8-103 portion of the expanded EE program, and (2) the expanded portion of the EE program must operate under the same rules and construct (e.g., flexibility, merged budget) as the Section 8-103 portion operates.	Ameren	CUB ICC Staff	IPA
2	If clear separation of costs and savings between Sections 8-103 and 16-111.5B EE portfolios is required, then there cannot be an expansion of the Section 8-103 EE programs per Section 16-111.5B.	Ameren	CUB ICC Staff	
3	An “expansion” of a Section 8-103 EE program per Section 16-111.5B is not strictly defined and could include expanding the EE program in such a way as to facilitate tracking of the Section 16-111.5B portion of the expanded EE program.	Ameren ComEd CUB ICC Staff IPA NRDC		
4	It is feasible to include EE program expansions in IPA procurements.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
5	Due to timing problems, it may not be feasible to include expansion of Section 8-103 EE programs in IPA procurements during years in which there are no Section 8-103 EE programs that have been approved by the Commission.	AG Ameren CUB ComEd ICC Staff NRDC		
6	The utilities should include cost-effective expansions of the Section 8-103 EE programs in the annual EE assessment they submit to the IPA, unless Section 8-103 EE programs are already expected to achieve the maximum achievable cost-effective savings.	AG Ameren ComEd CUB NRDC		
7	To align the filing timelines across Sections 8-103 and 16-111.5B to facilitate including EE program expansions in the EE assessments the utilities submit to the IPA, the utilities and DCEO could file their next Section 8-103 EE plans with the Commission by July 1, 2016. (Need gas utility support)	Ameren ComEd CUB ICC Staff NRDC		

DRAFT – Matrix of All Issues (Consensus/Non-Consensus) Regarding Section 16-111.5B Energy Efficiency and Classification of Parties’ Positions on Each Issue (6-14-13, 4:30pm)

#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
8	Utilities’ Section 16-111.5B EE program is to implementers should include solicitation for both expansions of Section 8-103 and new or different EE programs. A hard and fast rule is unnecessary with respect to whether Section 16-111.5B EE programs should be limited to new or different EE programs than those included in a utility’s Section 8-103 EE portfolio.	ComEd CUB ICC Staff NRDC	AG	
9	The Section 16-111.5B EE programs should necessarily have less cumbersome evaluation protocols.	CUB	ICC Staff	
10	The utilities cannot manage EE programs procured pursuant to Section 16-111.5B in the same way as they manage the Section 8-103 EE programs.	Ameren ComEd CUB ICC Staff NRDC		IPA
11	Evaluation of the Section 16-111.5B EE programs should be performed by the Section 8-103 EE program evaluators.	AG Ameren ComEd CUB ICC Staff NRDC		
12	Evaluation of Sections 8-103 and 16-111.5B EE programs should be coordinated.	Ameren ComEd CUB ICC Staff NRDC		
13	It is not necessary for the Section 8-103 EE portfolio to be approved by the Commission for a specific year in order for EE program expansions, including expansion of DCEO’s EE programs, to be included in that year’s EE assessment that is submitted to the IPA per Section 16-111.5B.	AG CUB NRDC	Ameren ComEd	
14	DCEO is allowed to offer EE programs under Section 16-111.5B.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
15 A	Expansion of DCEO’s Section 8-103 EE programs should be included in the EE assessment that the utilities submit to the IPA per Section 16-111.5B, assuming cooperation from DCEO. (Still questioning contracting relationship with DCEO under Section 16-111.5B EE programs.)	AG Ameren ComEd CUB NRDC		
15 B	It would be appropriate for DCEO to bid programs into the utilities’ annual EE assessments (RFP). (Still questioning contracting relationship with DCEO under Section 16-111.5B EE programs.)	Ameren ComEd CUB DCEO ICC Staff IPA NRDC		

DRAFT – Matrix of All Issues (Consensus/Non-Consensus) Regarding Section 16-111.5B Energy Efficiency and Classification of Parties’ Positions on Each Issue (6-14-13, 4:30pm)

#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
16	Expansion of DCEO’s Section 8-103 EE programs would need to be shown to be cost-effective per Section 16-111.5B requirements.	ComEd CUB ICC Staff IPA NRDC		Ameren
17	Sections 8-103 and 16-111.5B EE portfolios can be kept separate.	AG Ameren City of Chicago ComEd CUB ICC Staff NRDC		IPA
18	Keeping Sections 8-103 and 16-111.5B EE portfolios separate results in no expansion of identical Section 8-103 EE programs, unless implementation rules remain the same for both portfolios.	Ameren	CUB ICC Staff	
19	In order to optimize the administration, operations, and achievement of separate Section 16-111.5B energy savings, there would still need to be a harmonized set of rules by which the Section 16-111.5B EE portfolio is managed which mirrors the rules for the Section 8-103 EE portfolio (e.g., flexibility) in order to alleviate confusion for implementers, administrators, program allies, and customers.	AG ComEd Ameren NRDC ICC Staff	CUB	
20 A	<u>AIC; Combining Sections 8-103 and 16-111.5B EE portfolios. It is permissible to combine the Section 8-103 and 16-111.5B portfolios assuming a harmonious set of rules.</u>	AG Ameren NRDC	City of Chicago ComEd CUB ICC Staff	IPA
20 B	Combining the Sections 8-103 and 16-111.5B portfolios and not subjecting the combined goal to penalties, only the Section 8-103 goals are subject to penalties, and all savings from expanded programs count toward the 8-103 goals.	Ameren ComEd	AG City of Chicago CUB ICC Staff NRDC	
21	Savings from the Section 8-103 portion of an expanded EE program would count toward achievement of a utility’s Section 8-103 savings goal.	AG Ameren ComEd CUB ICC Staff NRDC		IPA
22	Savings from the entire expanded (IPA + 8-103) EE program would count toward achievement of a utility’s Section 8-103 savings goal.	Ameren	City of Chicago CUB ICC Staff NRDC	IPA ComEd

DRAFT – Matrix of All Issues (Consensus/Non-Consensus) Regarding Section 16-111.5B Energy Efficiency and Classification of Parties’ Positions on Each Issue (6-14-13, 4:30pm)

#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
23	Savings from the Section 16-111.5B portion of an expanded EE program would count toward achievement of a utility’s Section 16-111.5B savings goal, not the Section 8-103 savings goal.	AG Ameren ComEd CUB ICC Staff NRDC		IPA
24	Banking policies would not overlap between Sections 8-103 and 16-111.5B.	Ameren ComEd CUB ICC Staff NRDC		
25	There is no need for banking under Section 16-111.5B.	Ameren ComEd CUB ICC Staff NRDC		
26	Instead of banking, if a utility or vendor exceeds the performance specified for a year, the utility or vendor can be compensated for additional cost-effective savings achieved, as this would create an incentive for utilities and third party vendors to maximize the achievement of cost-effective energy efficiency.	CUB		
27	Banking rules for Section 16-111.5B EE programs would be the same as for Section 8-103 EE programs, but only for the duration of contracts put in place. There would be no banking for EE programs accepted for one year of implementation, only for EE programs accepted for two or three years.	AG Ameren ComEd NRDC	CUB	
28	Sections 8-103 and 16-111.5B EE budgets would be kept separate.	AG Ameren ComEd CUB ICC Staff NRDC		
29	Funds approved pursuant to Section 16-111.5B could not be spent on EE programs that were not approved in the procurement plan docket.	Ameren ComEd CUB ICC Staff NRDC		
30	EE program expansions would be expanded in such a way as to facilitate utility tracking of the original Section 8-103 portion and the Section 16-111.5B portion of the expanded EE program. (not expanded in exactly the same manner)	Ameren ComEd CUB ICC Staff NRDC		
31	Savings from expanded EE programs could be allocated based on the proportion of savings originally forecasted for the expansion. (may not be feasible unless the evaluation rules for 8-103 and 16-111.5B are the same – e.g., deeming NTG annually or across multiple years)	AG Ameren NRDC ComEd		

DRAFT – Matrix of All Issues (Consensus/Non-Consensus) Regarding Section 16-111.5B Energy Efficiency and Classification of Parties’ Positions on Each Issue (6-14-13, 4:30pm)

#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
32	For general reporting purposes, it would be appropriate to report each Section’s EE goals, achieved savings, and budgets together to show the impact of the utilities’ EE portfolios across the state, in addition to separately, so that progress can be tracked separately for each EE portfolio.	AG Ameren ComEd CUB ICC Staff NRDC		
33 A	Evaluations for expanded EE programs could be presented in a single evaluation report with a clear delineation in the tables reporting the savings amount associated with the Section 8-103 portion of the expanded EE program and the savings amount associated with the Section 16-111.5B portion of the expanded EE program.	AG ComEd CUB ICC Staff	Ameren	
33 B	Section 16-111.5B EE evaluation reports should be provided to the Commission in a public docket, either reconciliation proceeding or savings docket.	AG CUB ICC Staff NRDC		Ameren ComEd IPA
34 A	If the IL-TRM in effect at the time of bid submittal is used for evaluation purposes for the Section 16-111.5B EE programs, then the evaluators will need to perform savings verification using two different IL-TRMs, one for the Section 16-111.5B EE measures (or Section 16-111.5B portion of the expanded EE program) and the other for the Section 8-103 EE measures (or Section 8-103 portion of the expanded EE program).	Ameren ComEd CUB ICC Staff		
34 B	Expanded 8-103 EE programs may operate under different rules than the third party vendor proposals submitted through the annual assessment (RFP process). Deal with this in the evaluation plans.		Ameren ComEd	
34 C	Expanded 16-111.5B portions of the expanded EE programs should operate under the same rules as the third party vendor proposals submitted through the annual assessment (RFP process).	Ameren ComEd CUB ICC Staff NRDC		
35	Similar to keeping reconciliation of revenues from Sections 8-103 and 16-111.5B in single rider reconciliation proceedings, the evaluations of the Section 16-111.5B EE programs would be filed in the utility’s Section 8-103 savings dockets for Commission review.	AG CUB ICC Staff	Ameren ComEd	
36	Evaluations of the Section 16-111.5B EE programs could be filed as a compliance filing in the procurement plan docket that the EE program was originally approved.	Ameren ComEd CUB	AG	NRDC
37	Sampling in evaluation (e.g., NTG) could occur on an expanded EE program-level basis, or could be based on each component of the expanded EE program (the Section 8-103 portion and the Section 16-111.5B portion of the expanded EE program), depending on the specific circumstance.	Ameren ComEd CUB ICC Staff		
38	Ex-post cost-effectiveness analysis should be performed for the Section 16-111.5B EE programs.	AG Ameren ComEd CUB ICC Staff NRDC		IPA

DRAFT – Matrix of All Issues (Consensus/Non-Consensus) Regarding Section 16-111.5B Energy Efficiency and Classification of Parties’ Positions on Each Issue (6-14-13, 4:30pm)

#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
39 A	Ex-post cost-effectiveness analysis should be performed using actual participation and the original IL-TRM used in modeling.	Ameren ComEd CUB ICC Staff NRDC		
39 B	Ex-post cost-effectiveness analysis should be performed using actual participation and the best available information (e.g., updated NTG).	ComEd ICC Staff		Ameren CUB
39 C	(AIC; If performed,) Ex-post cost-effectiveness analysis should be performed using actual participation and the original inputs (including avoided costs) used in modeling. (AIC: However ex-poste cost-effectiveness analysis is not required.)	Ameren ICC Staff	ComEd	CUB
40	There must be a balance in the evaluation of Section 16-111.5B EE programs between the degree of evaluation and the size of the program, wherein larger programs justify more complete evaluations.	AG Ameren ComEd ICC Staff NRDC		CUB
41	To the extent parties are concerned with EE replacing power purchase needs under Section 16-111.5B, it would be appropriate for the IPA and procurement administrator in consultation with the utilities and/or evaluators to attempt to estimate the amount that the Section 16-111.5B EE programs reduce the IPA’s need to procure supply, to serve as a check on the utilities’ original estimate required by Section 16-111.5B(a)(3)(G), and to provide useful information to customers.	AG Ameren CUB ICC Staff NRDC		ComEd IPA
42	EE procured through Section 16-111.5B is intended to offset the purchase of energy supply and not allow utilities greater ease at meeting the statutory targets of the Section 8-103 EE programs.	CUB		
43	Utilities are not subject to penalties for failure to achieve the annual Section 16-111.5B energy savings goal.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
44	There is no annual savings goal for the Section 16-111.5B EE programs.		AG ICC Staff NRDC IPA CUB	
45	To the extent practicable, the contracts for the Section 16-111.5B EE programs should be written as supply contracts.	Ameren CUB		
46	In general, the IL-TRM should be used for Section 16-111.5B EE programs.	AG Ameren ComEd CUB ICC Staff NRDC		IPA

DRAFT – Matrix of All Issues (Consensus/Non-Consensus) Regarding Section 16-111.5B Energy Efficiency and Classification of Parties’ Positions on Each Issue (6-14-13, 4:30pm)

#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
47	There may be special circumstances where deviation from the IL-TRM may be appropriate; the utility/vendor should have the option to make the case for the special circumstance. However, the IL-TRM values must also be provided for comparison purposes.	AG Ameren CUB ComEd ICC Staff NRDC		IPA
48	Section 16-111.5B EE programs should not be re-evaluated for cost-effectiveness once they are approved by the ICC.	CUB		
49	Since the Section 16-111.5B EE programs are procured as if supply, then re-negotiation or termination should not occur mid-contract due to a re-evaluation of cost-effectiveness and savings, as this would create uncertainty for third party vendors and reduce the number of bids from third party vendors. Termination can occur for performance based reasons.	CUB	AG Ameren ComEd ICC Staff NRDC	IPA
50	There is no risk of expending funds imprudently unwisely with a “pay-for performance” contract.	CUB	ICC Staff	
51	Not all Section 16-111.5B EE programs should necessarily be evaluated.	AG NRDC	ComEd	
52	Expanded EE programs would receive one evaluation.	AG NRDC		
53	Separate programs, contracts, and budgets does not allow for a combined evaluation budget (nor expansion of EE programs) and thus operational efficiencies for evaluation does not occur.	Ameren		
54	Multi-year EE procurement is allowed in the context of the annual EE procurement plan proceeding.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
55 A	The length of multi-year EE procurements should be restricted to the Section 8-103 planning timeframes.	AG ComEd CUB NRDC	ICC Staff	Ameren IPA
55 B	At this time, restricting multi-year EE procurements to three years and allowing deeming of IL-TRM used at time of bid submission would be appropriate for EE programs approved pursuant to Section 16-111.5B, including the Section 16-111.5B portion of an expanded EE program.	AG Ameren ComEd CUB ICC Staff		
55 C	Utilities should include bid reviews in their EE assessments submitted to the IPA (similar to ComEd last year) (would be confidential).	AG Ameren ComEd CUB ICC Staff NRDC		

DRAFT – Matrix of All Issues (Consensus/Non-Consensus) Regarding Section 16-111.5B Energy Efficiency and Classification of Parties’ Positions on Each Issue (6-14-13, 4:30pm)

#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
55 D	Utilities should include all bids in their EE assessments submitted to the IPA (similar to Ameren last year).	Ameren ComEd CUB ICC Staff NRDC		
55E	Even if bidders submit three year bids, there should be the option to limit the bid to a single year (e.g., if it is not a “proven” program).	AG Ameren ComEd ICC Staff	CUB	
56	It’s appropriate to structure Section 16-111.5B EE contracts as “pay-for-performance”.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
57	Utilities should have flexibility to structure Section 16-111.5B EE contracts in a manner which best balances the potentially competing objectives of making the procurement process attractive to as many bidders as possible and providing confidence that the savings which are proposed/bid will actually be delivered.	AG Ameren ComEd CUB ICC Staff NRDC		
58	Parties should work toward agreeing upon a set of principles for Section 16-111.5B EE contract design.	CUB		
59	No legal requirement for Section 16-111.5B EE contracts to be structured around a “pay-for performance” structure.	AG Ameren ComEd ICC Staff NRDC		IPA CUB
60	Due to Section 16-111.5B(a)(5) indicating that the utility procurement of the additional EE is not subject to the requirements of Section 16-111.5(e), this means there should be no accountability or review or evaluation of the Section 16-111.5B EE programs (only expanded Section 8-103 EE programs).	Ameren	AG CUB ICC Staff NRDC	
61 A	TRM values “in effect” at time of bid submission should be deemed, where “in effect” means the most recent Commission approved IL TRM.	Ameren ComEd CUB ICC Staff		NRDC
61 B	NTG – not included in IL-TRM. Bidders include a NTG in bids and utilities adjust based on reasonableness. Utilities can include justification for NTG in submittal and if uncontested, it can be deemed for term of contract if NTG approved by Commission.	Ameren ComEd ICC Staff	AG CUB NRDC	
61 C	Limit to three year EE procurement under Section 16-111.5B and then can deem NTG for those three years for EE programs approved pursuant to Section 16-111.5B, including the Section 16-111.5B portion of an expanded EE program.	AG Ameren ComEd CUB ICC Staff	NRDC	

DRAFT – Matrix of All Issues (Consensus/Non-Consensus) Regarding Section 16-111.5B Energy Efficiency and Classification of Parties’ Positions on Each Issue (6-14-13, 4:30pm)

#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
62	IL-TRM values in effect at time of Commission approval should be deemed.	AG NRDC	Ameren ComEd ICC Staff	
63	IL-TRM values “in effect” at time of bid submission should be deemed for the length of time the Commission approves the Section 16-111.5B EE program, including the Section 16-111.5B portion of an expanded EE program, where “in effect” means the most recent Commission-approved IL-TRM.	AG Ameren ComEd CUB ICC Staff		NRDC
64	IL-TRM values in effect at time of Commission approval should be deemed for only the first year of EE program implementation.	AG NRDC	Ameren CUB ComEd	
65	To enable bidders to use the IL-TRM values in effect at time of Commission approval in submitting their bid, the utilities could conduct the annual solicitation (RFP) when the consensus Updated IL-TRM is available.	ICC Staff	Ameren ComEd	
66	There is prudence accountability in a docketed proceeding but no docketed proceeding for savings goals is required per Section 16-111.5B.	Ameren ComEd ICC Staff IPA NRDC		CUB
67	Only expanded Section 16-111.5B EE programs should be evaluated, the other Section 16-111.5B EE programs do not need to be evaluated.	Ameren	ComEd	
68	Evaluation is consistent with the law in that it verifies that savings are in fact occurring to offset power procurement needs, and process evaluation is justified to encourage improvement in the implementation of the EE programs.	CUB ICC Staff	ComEd	
69	Expenditures on evaluation should be capped for the Section 16-111.5B EE programs as they are for the Section 8-103 EE programs.	Ameren ComEd CUB ICC Staff NRDC		
70	Bidders should include the cost of evaluation and the proposed methodology in responses to the utility RFPs.	CUB	AG ComEd ICC Staff	
71	Ex-post evaluation results should only be used prospectively to adjust TRM values, NTG and forecast savings.	AG Ameren ComEd CUB NRDC	ICC Staff	
72	NTG values should be deemed for the length of the Section 16-111.5B EE contract.	CUB	AG NRDC	
73	Changes in NTG assumptions should be made through consensus of the SAG.	AG NRDC	Ameren ComEd	CUB
74	Evaluation of the expanded Section 16-111.5B portion and the original Section 8-103 portion of an expanded EE program must use only one set of rules in the evaluation; the expanded EE program would need to be evaluated using either the Section 8-103 rules or the Section 16-111.5B rules for both portions of the expanded EE program.	AG Ameren NRDC	CUB ICC Staff	

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#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
75	Evaluation of the expanded Section 16-111.5B portion and the original Section 8-103 portion of an expanded EE program should be evaluated using the Section 8-103 rules for both portions of the expanded EE program.	AG Ameren NRDC	CUB ICC Staff	
76	Evaluation of the expanded Section 16-111.5B portion and the original Section 8-103 portion of an expanded EE program should be evaluated using the Section 16-111.5B rules for both portions of the expanded EE program.	Ameren	ICC Staff	
77	Evaluation of the expanded Section 16-111.5B portion and the original Section 8-103 portion of an expanded EE program can be evaluated using the Section 8-103 rules for the original Section 8-103 portion of the expanded EE programs and the Section 16-111.5B rules for the expanded Section 16-111.5B portion of the expanded EE program.	CUB ICC Staff	AG Ameren NRDC	
78	Annual adjustments to TRM values should affect multi-year EE programs.	AG NRDC	Ameren ComEd CUB	
79	Section 16-111.5B EE programs may be included in the IL-TRM update process.	AG Ameren ComEd CUB ICC Staff NRDC		IPA
80	Section 16-111.5B EE programs should be included in the IL-TRM and NTG ratio development processes <i>only</i> if the programs are at least partially included in the Section 8-103 EE portfolio as well.	CUB	ICC Staff	
81	There are no goals, budgets, or affected supply requirements in explicitly specified in Section 16-111.5B.	Ameren ComEd CUB IPA ICC Staff	ICC Staff	
82	Ex-post evaluation results should be applied retrospectively for custom savings calculations.	AG ComEd CUB ICC Staff NRDC	Ameren	IPA
83	Utilities should be responsible for prudently administering the contracts with third party vendors.	CUB ICC Staff	ComEd Ameren	
84	Section 16-111.5B does not require the utility to be responsible for determining what vendors should be contracted for what amount of savings.	Ameren ComEd CUB ICC Staff IPA NRDC		
85	Failure of third party EE vendors to perform will likely not trigger a contingency event pursuant to Section 16-111.5(e)(5)(ii), and instead will be handled by day-ahead balancing pursuant to Section 16-111.5(e)(5)(iii) (similar to other imbalances, such as oversupply).	CUB ICC Staff IPA		

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#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
86	The IPA and utilities have existing mechanisms and strategies for addressing generator default on supply contracts and these mechanisms and strategies should be applied to EE vendors to the extent practicable.	CUB		
87	Utilities should only sign pay for performance contracts with vendors to minimize ratepayer risk if a vendor is unable to fulfill its savings obligation under the contract.	CUB		
88	The utility has an obligation to prudently management the contracts for vendors that the utility is not responsible for selecting.		Ameren	
89	There should be a grace period for non-consensus IL-TRM updates and NTG changes.	AG NRDC	Ameren ComEd CUB ICC Staff	
90 A	Cost-ineffective EE programs should be dropped.	AG Ameren ComEd ICC Staff NRDC	CUB	IPA
90 B	If program becomes cost-ineffective during life of program, then it should be dropped.	AG NRDC	Ameren ComEd	
90 C	Cost-ineffective programs should be dropped during proceeding.	Ameren ComEd CUB ICC Staff IPA NRDC		
90 D	Need clear set of rules for determining whether to drop program.	AG Ameren	ICC Staff	
91	Some degree of flexibility in implementation of Section 16-111.5B EE programs could be allowed.	AG Ameren ComEd ICC Staff IPA NRDC	CUB	
92	There is no need for adjustments to the Section 16-111.5B energy savings goals since there are no penalties and if the IL-TRM values are deemed.	Ameren ComEd CUB ICC Staff	AG NRDC	
93	EE rider reconciliation proceedings are the appropriate venues for reviewing adjustments.	CUB ICC Staff	ComEd	
94	A straightforward NTG framework providing for prospective deemed values (not necessarily for all three years) would ensure the highest degree of productivity and least cost to ratepayers.	Ameren ComEd		
95	Vendors and utilities should not be held accountable to changes in values or the market after a program has already been determined to be cost-effective.	Ameren CUB	ComEd ICC Staff	
96 A	Section 16-111.5B EE programs should be managed by the utilities as a portfolio.	AG NRDC	Ameren ComEd CUB	

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#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
96 B	Excess 8-103 funds should be allowed to be used on 16-111.5B programs toward the end of the year (e.g., SB DI). Savings allocation would first count toward the 16-111.5B program goal approved in the IPA procurement docket, and excess would count toward 8-103 goal.	Ameren ComEd CUB NRDC	AG	IPA
97	Funding can be shifted between Sections 8-103 and 16-111.5B EE portfolios.	AG Ameren NRDC	ComEd CUB ICC Staff	IPA
98	Funding can be shifted between the Commission-approved Section 16-111.5B EE programs.	AG Ameren ComEd ICC Staff NRDC	CUB	IPA
99	Funding should not be shifted amongst the Section 16-111.5B EE programs.	Ameren CUB	AG ComEd NRDC	IPA
10 0A	If approved by the Commission, the Section 16-111.5B funding for each EE program can be increased for overachieving EE programs and/or decreased for underachieving EE programs.	Ameren ComEd ICC Staff NRDC	AG CUB	
10 0B	Program funding budgets may exceed the amounts specified in the procurement plan filings if the programs are overachieving the savings amount specified in the procurement plan filings.	Ameren ComEd CUB ICC Staff NRDC	AG	
10 0C	Under the pay for performance contract, the ICC could authorize on a program basis, a maximum energy savings achieved and spending cap.	AG Ameren ComEd ICC Staff NRDC		CUB
10 0D	The Commission may authorize on a program basis an expected spending level and the spending level cap.	AG Ameren ComEd ICC Staff		CUB
10 0E	On a program by program basis, the Commission may authorize a range above a budgeted program amount to allow for operational flexibility.	Ameren ComEd ICC Staff NRDC	AG	CUB
10 1A	The Commission can consider additional criteria (e.g., Section 16-111.5B(a)(3)(D)-(E)) beyond cost-effectiveness in approving programs proposed by the IPA.	ICC Staff	AG NRDC	ComEd CUB IPA
10 1B	The Commission can consider additional criteria (e.g., bidder reputability) beyond cost-effectiveness in approving programs proposed by the IPA.	ICC Staff		ComEd

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#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
10 2	The Total Resource Cost (“TRC”) test should be calculated at the program or measure level.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
10 3	The Total Resource Cost (“TRC”) test should be calculated at the portfolio level for Section 16-111.5B EE programs.	AG NRDC	Ameren ComEd CUB ICC Staff IPA	
10 4	The utilities should provide public access to the Total Resource Cost (“TRC”) test screening tools.	AG Ameren CUB IPA NRDC	ComEd	
10 5	Section 16-111.5B(a)(3)(D) can be interpreted as the Utility Cost Test (“UCT”).	AG Ameren ComEd ICC Staff NRDC		CUB IPA
10 6	Section 16-111.5B(a)(3)(D) should be used by the utilities to screen programs.	ComEd ICC Staff	AG Ameren CUB NRDC	
10 7	Section 16-111.5B(a)(3)(D) should be calculated for each program.	Ameren ComEd CUB ICC Staff NRDC		IPA
10 8	Section 16-111.5B(a)(3)(D) should be calculated only for the portfolio.	CUB	ComEd ICC Staff	
10 9	Section 16-111.5B(a)(3)(D) can be interpreted as the Ratepayer Impact Measure (“RIM”) test.	Ameren	AG ComEd ICC Staff NRDC	
11 0	Section 16-111.5B(a)(3)(E) can be interpreted as the Total Resource Cost (“TRC”) test.	AG Ameren ICC Staff NRDC		ComEd
11 1	Section 16-111.5B(a)(3)(E) can be interpreted as the Cost of Conserved Energy (“CCE”).	ComEd ICC Staff	AG NRDC	Ameren
11 2	Section 16-111.5B(a)(3)(E) can be interpreted as the Utility Cost Test (“UCT”).	Ameren	ICC Staff NRDC	ComEd

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#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
113	The Commission should determine how the additional information provided pursuant to Section 16-111.5B(a)(3)(D)-(E) should be used (i.e., litigate).	AG Ameren ComEd CUB ICC Staff IPA NRDC		

ICC Workshop Regarding Section 16-111.5B Energy Efficiency Programs

OAG Points of Disagreement With or Questions Regarding Staff Consensus Matrix

Dated: June 19, 2013 (Confidential – In the Nature of Settlement Discussions)

10: The utilities cannot manage EE programs procured pursuant to Section 16-111.5B in the same way as they manage the Section 8-103 EE programs.

AG Comment: Not sure why that is the case, especially 16-111.5B programs that are expansions of 8-103 programs. There must be oversight of the 16-111.5B programs. It is not clear that we should assume paid-for-performance contracts will guarantee the delivery of cost-effective programs with no utility oversight, especially given the time lag in evaluations of programs. More discussion among the parties on this point is necessary.

17: Sections 8-103 and 16-111.5B EE portfolios can be kept separate.

AG Comment: Not sure what “separate” means in this context. Elaboration is necessary.

21: Savings from the Section 8-103 portion of an expanded EE program would count toward achievement of a utility’s Section 8-103 savings goal.

AG Comment: Isn’t this a tautology? How could anyone argue otherwise? It’s such a given, that perhaps it should be removed as a consensus item, especially given Consensus item # 23.

24: Banking policies would not overlap between Sections 8-103 and 16-111.5B.

AG Comment: Needs further clarification. Are you saying the 8-103 banking policies would not be applied to 16-111.5B programs? Or are you stating that no banking would apply to 16-111.5B programs? Is the concept of banking for 16-111.5B programs appropriate? Given Item #25, I think #24 should be removed.

32: (As revised by OAG) For general reporting purposes, it would be appropriate to report each Section’s EE goals, achieved savings, budgets and impact on EE rider surcharge to show the impact of the utilities’ EE portfolios across the state, both individually and collectively, so that progress can be tracked separately for each EE portfolio.

AG Comment: This consensus item should indicate which entity is responsible for reporting these facts. Perhaps the IPA could collect this data from the Utilities for annual filing with the Commission. The Utilities could also file it as a part of their annual Rider EEP reconciliation filing.

34A: If the IL-TRM in effect at the time of bid submittal is used for evaluation purposes for the Section 16-111.5B EE programs, then the evaluators will need to perform savings verification using two different IL-TRMs, one for the Section 16-111.5B EE measures (or Section 16-111.5B portion of the expanded EE program) and *the other* for the Section 8-103 EE measures (or Section 8-103 portion of the expanded EE program).

AG Comment: This sentence is vague and unclear. What is “the other” in the latter part of the sentence? The OAG believes evaluations should be consistent across the board for Section 8-103

and 16-111.5B programs. Annual updates to the TRM and applicable NTG rules applied in 8-103 evaluations should be used for 16-111.5B programs to the extent they are applicable. This issue may have to be further discussed in the SAG.

34C: ~~Expanded~~ 16-111.5B portions of the expanded EE programs should operate under the same rules as the third party vendor proposals submitted through the annual assessment (RFP process).

AG Comment: This sentence is vague and requires elaboration.

37: Sampling in evaluation (e.g., NTG) could occur on an expanded EE program-level basis, or could be based on each component of the expanded EE program (the Section 8-103 portion and the Section 16-111.5B portion of the expanded EE program), depending on the specific circumstance.

AG Comment: Not sure what is meant here. Are you saying not all 16-111.5B programs would be evaluated, similar to Section 8-103 programs (if simply an expanded program that has been previously evaluated)? What is being sampled? As this sentence reads now, the implication is that evaluation criteria would be sampled, not programs. Requires clarification and elaboration.

39A: Ex-post cost-effectiveness analysis should be performed using actual participation and the original IL-TRM used in modeling.

39B: Ex-post cost-effectiveness analysis should be performed using actual participation and the best available information (e.g., updated NTG).

AG Comment: These two points seem contradictory. 39A implies no incorporation of “the best available information.” Yet, these are both listed as consensus items.

Are the “expanded programs” done as part of 16-111.5B administered by the utilities? If so, shouldn’t they still be treated under the same EM&V framework as 8-103 programs? Section 16-111.5B, like 8-103, still requires that the programs delivered to be cost-effective. That means evaluation remains important. On the other hand, we are told that independent bidders of new programs exercise no control or involvement in the EM&V framework (unlike the utilities), and are paid on performance. Therefore, it may make sense to provide them with clearer rules that lock in values so they know how savings values and NTG figures will be counted and don’t perceive significant risk. Under those instances, deeming values for the length of the program period might make sense. Again, given the email exchanges of the past few days, this remains an issue that may require further elaboration from the utilities. We are concerned, too, that the Utilities seem to admit to a lesser level of general oversight over the Section 16-111.5 programs.

46: In general, the IL-TRM updates should be used for Section 16-111.5B EE programs.

AG Comment: Updates to the TRM should be incorporated in the evaluation process for utility-administered programs. We would revise this statement as follows:

In general, the IL-TRM and all updates should be used for Section 16-111.5B EE programs. Exceptions to this rule would have to be explained. See AG Comment for 39B above.

63: IL-TRM values “in effect” at time of bid submission should be deemed for the length of time the Commission approves the Section 16-111.5B EE program, including the Section 16-111.5B portion of an expanded EE program, where “in effect” means the most recent Commission-approved IL-TRM.

AG Comment: As noted on OAG-edited Matrix, the OAG opposes this, as described above, so it should not be listed as a Consensus item.

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I. Matrix of All CONSENSUS Issues Regarding Section 16-111.5B Energy Efficiency and Classification of Parties’ Positions on Each Issue (6-14-13, 4:30PM)

#	CONSENSUS Issue/Position regarding Section 16-111.5B EE (not 8-103)	Support	Oppose	Neutral
3	An “expansion” of a Section 8-103 EE program per Section 16-111.5B is not strictly defined and could include expanding the EE program in such a way as to facilitate tracking of the Section 16-111.5B portion of the expanded EE program.	Ameren ComEd CUB ICC Staff IPA NRDC AG		
4	It is feasible to include EE program expansions in IPA procurements.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
5	Due to timing problems, it may not be feasible to include expansion of Section 8-103 EE programs in IPA procurements during years in which there are no Section 8-103 EE programs that have been approved by the Commission.	AG Ameren CUB ComEd ICC Staff NRDC		
6	The utilities should include cost-effective expansions of the Section 8-103 EE programs in the annual EE assessment they submit to the IPA, unless Section 8-103 EE programs are already expected to achieve the maximum achievable cost-effective savings.	AG Ameren ComEd CUB NRDC		
7	To align the filing timelines across Sections 8-103 and 16-111.5B to facilitate including EE program expansions in the EE assessments the utilities submit to the IPA, the utilities and DCEO could file their next Section 8-103 EE plans with the Commission by July 1, 2016. (Need gas utility support)	Ameren ComEd CUB ICC Staff NRDC AG		

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#	CONSENSUS Issue/Position regarding Section 16-111.5B EE (not 8-103)	Support	Oppose	Neutral
10	The utilities cannot manage EE programs procured pursuant to Section 16-111.5B in the same way as they manage the Section 8-103 EE programs.	Ameren ComEd CUB ICC Staff NRDC		IPA
11	Evaluation of the Section 16-111.5B EE programs should be performed by the Section 8-103 EE program evaluators.	AG Ameren ComEd CUB ICC Staff NRDC		
12	Evaluation of Sections 8-103 and 16-111.5B EE programs should be coordinated.	Ameren ComEd CUB ICC Staff NRDC AG		
14	DCEO is allowed to offer EE programs under Section 16-111.5B.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
15 A	Expansion of DCEO's Section 8-103 EE programs should be included in the EE assessment that the utilities submit to the IPA per Section 16-111.5B, assuming cooperation from DCEO. (Still questioning contracting relationship with DCEO under Section 16-111.5B EE programs.)	AG Ameren ComEd CUB NRDC		
15 B	It would be appropriate for DCEO to bid programs into the utilities' annual EE assessments (RFP). (Still questioning contracting relationship with DCEO under Section 16-111.5B EE programs.)	Ameren ComEd CUB DCEO ICC Staff IPA NRDC AG		
16	Expansion of DCEO's Section 8-103 EE programs would need to be shown to be cost-effective per Section 16-111.5B requirements.	ComEd CUB ICC Staff IPA NRDC AG		Ameren

Comment [TKF1]: See AG Accompanying Memo entitled, "OAG Points of Disagreement With or Questions Regarding Staff Consensus Matrix."

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#	CONSENSUS Issue/Position regarding Section 16-111.5B EE (not 8-103)	Support	Oppose	Neutral
17	Sections 8-103 and 16-111.5B EE portfolios can be kept separate.	AG Ameren City of Chicago ComEd CUB ICC Staff NRDC		IPA
21	Savings from the Section 8-103 portion of an expanded EE program would count toward achievement of a utility's Section 8-103 savings goal.	AG Ameren ComEd CUB ICC Staff NRDC		IPA
23	Savings from the Section 16-111.5B portion of an expanded EE program would count toward achievement of a utility's Section 16-111.5B savings goal, not the Section 8-103 savings goal.	AG Ameren ComEd CUB ICC Staff NRDC		IPA
24	Banking policies would not overlap between Sections 8-103 and 16-111.5B.	Ameren ComEd CUB ICC Staff NRDC		
25	There is no need for banking under Section 16-111.5B.	Ameren ComEd CUB ICC Staff NRDC		
28	Sections 8-103 and 16-111.5B EE budgets would be kept separate.	AG Ameren ComEd CUB ICC Staff NRDC		
29	Funds approved pursuant to Section 16-111.5B could not be spent on EE programs that were not approved in the procurement plan docket.	Ameren ComEd CUB ICC Staff NRDC AG		
30	Section 8-103 EE program expansions would be expanded in such a way as to facilitate utility tracking of the original Section 8-103 portion and the Section 16-111.5B portion of the expanded EE program. (Section 16-111.5B expanded programs may not be expanded in exactly the same manner manner. For example, incentive payments might be adjusted, as long as changes still produced a cost-effective program.)	Ameren ComEd CUB ICC Staff NRDC AG		

Comment [TKF2]: See AG Accompanying Memo entitled, "OAG Points of Disagreement With or Questions Regarding Staff Consensus Matrix."

Comment [TKF3]: See AG Accompanying Memo entitled, "OAG Points of Disagreement With or Questions Regarding Staff Consensus Matrix."

Comment [TKF4]: See AG Accompanying Memo entitled, "OAG Points of Disagreement With or Questions Regarding Staff Consensus Matrix."

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#	CONSENSUS Issue/Position regarding Section 16-111.5B EE (not 8-103)	Support	Oppose	Neutral
32	For general reporting purposes, it would be appropriate to report each Section's EE goals, achieved savings, and budgets <u>and impact on EE rider surcharge together</u> to show the impact of the utilities' EE portfolios across the state, <u>both individually and collectively, in addition to separately</u> , so that progress can be tracked separately for each EE portfolio.	AG Ameren ComEd CUB ICC Staff NRDC		
33 B	Section 16-111.5B EE evaluation reports should be provided to the Commission in a public docket, either reconciliation proceeding or savings docket. <u>In addition to program evaluation reports, filed data should include information detailed in Consensus item #32, the effect of 16-111.5B programs on the IPA's annual procurement and the EE surcharge by customer class.</u>	AG CUB ICC Staff NRDC		Ameren ComEd IPA
34 A	If the IL-TRM in effect at the time of bid submittal is used for evaluation purposes for the Section 16-111.5B EE programs, then the evaluators will need to perform savings verification using two different IL-TRMs, one for the Section 16-111.5B EE measures (or Section 16-111.5B portion of the expanded EE program) and the other for the Section 8-103 EE measures (or Section 8-103 portion of the expanded EE program).	Ameren ComEd CUB ICC Staff		
34 C	Expanded 16-111.5B portions of the expanded EE programs should operate under the same rules as the third party vendor proposals submitted through the annual assessment (RFP process).	Ameren ComEd CUB ICC Staff NRDC		
37	Sampling in evaluation (e.g., NTG) could occur on an expanded EE program-level basis, or could be based on each component of the expanded EE program (the Section 8-103 portion and the Section 16-111.5B portion of the expanded EE program), depending on the specific circumstance.	Ameren ComEd CUB ICC Staff		
38	Ex-post cost-effectiveness analysis should be performed for the Section 16-111.5B EE programs.	AG Ameren ComEd CUB ICC Staff NRDC		IPA
39 A	Ex-post cost-effectiveness analysis should be performed using actual participation and the original IL-TRM used in modeling.	Ameren ComEd CUB ICC Staff NRDC		
39 B	Ex-post cost-effectiveness analysis should be performed using actual participation and the best available information (e.g., updated NTG).	AG ComEd ICC Staff		Ameren CUB
40	There must be a balance in the evaluation of Section 16-111.5B EE programs between the degree of evaluation and the size of the program, wherein larger <u>and new</u> programs justify more complete evaluations.	AG Ameren ComEd ICC Staff NRDC		CUB

Comment [TKF5]: See AG Accompanying Memo entitled, "OAG Points of Disagreement With or Questions Regarding Staff Consensus Matrix."

Comment [TKF6]: See AG Accompanying Memo entitled, "OAG Points of Disagreement With or Questions Regarding Staff Consensus Matrix."

Comment [TKF7]: See AG Accompanying Memo entitled, "OAG Points of Disagreement With or Questions Regarding Staff Consensus Matrix."

Comment [TKF8]: See AG Accompanying Memo entitled, "OAG Points of Disagreement With or Questions Regarding Staff Consensus Matrix."

Comment [TKF9]: See AG Accompanying Memo entitled, "OAG Points of Disagreement With or Questions Regarding Staff Consensus Matrix."

Comment [TKF10]: See AG Accompanying Memo entitled, "OAG Points of Disagreement With or Questions Regarding Staff Consensus Matrix."

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#	CONSENSUS Issue/Position regarding Section 16-111.5B EE (not 8-103)	Support	Oppose	Neutral
41	To the extent parties are concerned with EE replacing power purchase needs under Section 16-111.5B, it would be appropriate for the IPA and procurement administrator in consultation with the utilities and/or evaluators to attempt to <u>annually</u> estimate the amount that the Section 16-111.5B EE programs reduce the IPA's need to procure supply, to serve as a check on the utilities' original estimate required by Section 16-111.5B(a)(3)(G), and to provide useful information to customers.	AG Ameren CUB ICC Staff NRDC		ComEd IPA
43	Utilities are not subject to penalties for failure to achieve the annual Section 16-111.5B energy savings goal.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
46	In general, the IL-TRM should be used for Section 16-111.5B EE programs.	AG Ameren ComEd CUB ICC Staff NRDC		IPA
47	There may be special circumstances where deviation from the IL-TRM may be appropriate; the utility/vendor should have the option to make the case for the special circumstance. However, the IL-TRM values must also be provided for comparison purposes.	AG Ameren CUB ComEd ICC Staff NRDC		IPA
54	Multi-year EE procurement is allowed in the context of the annual EE procurement plan proceeding.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
55 B	At this time, restricting multi-year EE procurements to three years and allowing deeming of IL-TRM used at time of bid submission would be appropriate for EE programs approved pursuant to Section 16-111.5B, including the Section 16-111.5B portion of an expanded EE program.	AG Ameren ComEd CUB ICC Staff	AG (oppose)]	
55 C	Utilities should include bid reviews in their EE assessments submitted to the IPA (similar to ComEd last year) (would be confidential).	AG Ameren ComEd CUB ICC Staff NRDC		

Comment [TKF11]: See AG Accompanying Memo entitled, "OAG Points of Disagreement With or Questions Regarding Staff Consensus Matrix."

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#	CONSENSUS Issue/Position regarding Section 16-111.5B EE (not 8-103)	Support	Oppose	Neutral
55 D	Utilities should include all bids in their EE assessments submitted to the IPA (similar to Ameren last year).	Ameren ComEd CUB ICC Staff NRDC AG		
56	It's appropriate to structure Section 16-111.5B EE contracts as "pay-for-performance".	AG Ameren ComEd CUB ICC Staff IPA NRDC		
57	Utilities should have flexibility to structure Section 16-111.5B EE contracts in a manner which best balances the potentially competing objectives of making the procurement process attractive to as many bidders as possible and providing confidence that the savings which are proposed/bid will actually be delivered.	AG Ameren ComEd CUB ICC Staff NRDC		
58	Parties should work toward agreeing upon a set of principles for Section 16-111.5B EE contract design.	CUB AG		
59	No legal requirement for Section 16-111.5B EE contracts to be structured around a "pay-for performance" structure.	AG Ameren ComEd ICC Staff NRDC		IPA CUB
63	IL-TRM values "in effect" at time of bid submission should be deemed for the length of time the Commission approves the Section 16-111.5B EE program, including the Section 16-111.5B portion of an expanded EE program, where "in effect" means the most recent Commission-approved IL-TRM.	AG Ameren ComEd CUB ICC Staff	AG	NRDC
66	There is prudence accountability in a docketed proceeding but no docketed proceeding for savings goals is required per Section 16-111.5B.	Ameren ComEd ICC Staff IPA NRDC		CUB
69	Expenditures on evaluation should be capped for the Section 16-111.5B EE programs as they are for the Section 8-103 EE programs. Should the cap be a separate 3% of Section 16-111.B expenditures?	Ameren ComEd CUB ICC Staff NRDC AG		
79	Section 16-111.5B EE programs may be should be included in the IL-TRM update process.	AG Ameren ComEd CUB ICC Staff NRDC		IPA

Comment [TKF12]: See AG Accompanying Memo entitled, "OAG Points of Disagreement With or Questions Regarding Staff Consensus Matrix."

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#	CONSENSUS Issue/Position regarding Section 16-111.5B EE (not 8-103)	Support	Oppose	Neutral
84	Section 16-111.5B does not require the utility to be responsible for determining what vendors should be contracted for what amount of savings.	Ameren ComEd CUB ICC Staff IPA NRDC AG		
90 C	Cost-ineffective programs should be dropped during proceeding.	Ameren ComEd CUB ICC Staff IPA NRDC AG		
10 0C	Under the pay for performance contract, the ICC could authorize on a program basis, a maximum energy savings achieved and spending cap.	AG Ameren ComEd ICC Staff NRDC		CUB
10 0D	The Commission may authorize on a program basis an expected spending level and the spending level cap.	AG Ameren ComEd ICC Staff		CUB
10 2	The Total Resource Cost ("TRC") test should be calculated at the program or measure level.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
10 5	Section 16-111.5B(a)(3)(D) can be interpreted as the Utility Cost Test ("UCT").	AG Ameren ComEd ICC Staff NRDC		CUB IPA
10 7	Section 16-111.5B(a)(3)(D) should be calculated for each program.	Ameren ComEd CUB ICC Staff NRDC		IPA
11 0	Section 16-111.5B(a)(3)(E) can be interpreted as the Total Resource Cost ("TRC") test.	AG Ameren ICC Staff NRDC		ComEd

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#	CONSENSUS Issue/Position regarding Section 16-111.5B EE (not 8-103)	Support	Oppose	Neutral
¹¹ ³	The Commission should determine how the additional information provided pursuant to Section 16-111.5B(a)(3)(D)-(E) should be used (i.e., litigate).	AG Ameren ComEd CUB ICC Staff IPA NRDC		

DRAFT – Matrix of All Issues (Consensus/Non-Consensus) Regarding Section 16-111.5B Energy Efficiency and Classification of Parties’ Positions on Each Issue (6-14-13, 4:30pm)

II. Matrix of All Issues (Consensus/Non-Consensus) Regarding Section 16-111.5B Energy Efficiency and Classification of Parties’ Positions on Each Issue (6-14-13, 4:30PM)

Yellow Highlight=Consensus

#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
1	By definition, an “expansion” of a Section 8-103 EE program per Section 16-111.5B means that (1) the expanded portion of the EE program cannot be uniquely distinguished and able to be tracked separately from the Section 8-103 portion of the expanded EE program, and (2) the expanded portion of the EE program must operate under the same rules and construct (e.g., flexibility, merged budget) as the Section 8-103 portion operates.	Ameren	CUB ICC Staff	IPA
2	If clear separation of costs and savings between Sections 8-103 and 16-111.5B EE portfolios is required, then there cannot be an expansion of the Section 8-103 EE programs per Section 16-111.5B.	Ameren	CUB ICC Staff	
3	An “expansion” of a Section 8-103 EE program per Section 16-111.5B is not strictly defined and could include expanding the EE program in such a way as to facilitate tracking of the Section 16-111.5B portion of the expanded EE program.	Ameren ComEd CUB ICC Staff IPA NRDC		
4	It is feasible to include EE program expansions in IPA procurements.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
5	Due to timing problems, it may not be feasible to include expansion of Section 8-103 EE programs in IPA procurements during years in which there are no Section 8-103 EE programs that have been approved by the Commission.	AG Ameren CUB ComEd ICC Staff NRDC		
6	The utilities should include cost-effective expansions of the Section 8-103 EE programs in the annual EE assessment they submit to the IPA, unless Section 8-103 EE programs are already expected to achieve the maximum achievable cost-effective savings.	AG Ameren ComEd CUB NRDC		
7	To align the filing timelines across Sections 8-103 and 16-111.5B to facilitate including EE program expansions in the EE assessments the utilities submit to the IPA, the utilities and DCEO could file their next Section 8-103 EE plans with the Commission by July 1, 2016. (Need gas utility support)	Ameren ComEd CUB ICC Staff NRDC		

DRAFT – Matrix of All Issues (Consensus/Non-Consensus) Regarding Section 16-111.5B Energy Efficiency and Classification of Parties’ Positions on Each Issue (6-14-13, 4:30pm)

#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
8	Utilities’ Section 16-111.5B EE program is to implementers should include solicitation for both expansions of Section 8-103 and new or different EE programs. A hard and fast rule is unnecessary with respect to whether Section 16-111.5B EE programs should be limited to new or different EE programs than those included in a utility’s Section 8-103 EE portfolio.	ComEd CUB ICC Staff NRDC	AG	
9	The Section 16-111.5B EE programs should necessarily have less cumbersome evaluation protocols.	CUB	ICC Staff	
10	The utilities cannot manage EE programs procured pursuant to Section 16-111.5B in the same way as they manage the Section 8-103 EE programs.	Ameren ComEd CUB ICC Staff NRDC		IPA
11	Evaluation of the Section 16-111.5B EE programs should be performed by the Section 8-103 EE program evaluators.	AG Ameren ComEd CUB ICC Staff NRDC		
12	Evaluation of Sections 8-103 and 16-111.5B EE programs should be coordinated.	Ameren ComEd CUB ICC Staff NRDC		
13	It is not necessary for the Section 8-103 EE portfolio to be approved by the Commission for a specific year in order for EE program expansions, including expansion of DCEO’s EE programs, to be included in that year’s EE assessment that is submitted to the IPA per Section 16-111.5B.	AG CUB NRDC	Ameren ComEd	
14	DCEO is allowed to offer EE programs under Section 16-111.5B.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
15 A	Expansion of DCEO’s Section 8-103 EE programs should be included in the EE assessment that the utilities submit to the IPA per Section 16-111.5B, assuming cooperation from DCEO. (Still questioning contracting relationship with DCEO under Section 16-111.5B EE programs.)	AG Ameren ComEd CUB NRDC		
15 B	It would be appropriate for DCEO to bid programs into the utilities’ annual EE assessments (RFP). (Still questioning contracting relationship with DCEO under Section 16-111.5B EE programs.)	Ameren ComEd CUB DCEO ICC Staff IPA NRDC		

DRAFT – Matrix of All Issues (Consensus/Non-Consensus) Regarding Section 16-111.5B Energy Efficiency and Classification of Parties’ Positions on Each Issue (6-14-13, 4:30pm)

#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
16	Expansion of DCEO’s Section 8-103 EE programs would need to be shown to be cost-effective per Section 16-111.5B requirements.	ComEd CUB ICC Staff IPA NRDC		Ameren
17	Sections 8-103 and 16-111.5B EE portfolios can be kept separate.	AG Ameren City of Chicago ComEd CUB ICC Staff NRDC		IPA
18	Keeping Sections 8-103 and 16-111.5B EE portfolios separate results in no expansion of identical Section 8-103 EE programs, unless implementation rules remain the same for both portfolios.	Ameren	CUB ICC Staff	
19	In order to optimize the administration, operations, and achievement of separate Section 16-111.5B energy savings, there would still need to be a harmonized set of rules by which the Section 16-111.5B EE portfolio is managed which mirrors the rules for the Section 8-103 EE portfolio (e.g., flexibility) in order to alleviate confusion for implementers, administrators, program allies, and customers.	AG ComEd Ameren NRDC ICC Staff	CUB	
20 A	Combining Sections 8-103 and 16-111.5B EE portfolios.	AG Ameren NRDC	City of Chicago ComEd CUB ICC Staff	IPA
20 B	Combining the Sections 8-103 and 16-111.5B portfolios and not subjecting the combined goal to penalties, only the Section 8-103 goals are subject to penalties, and all savings from expanded programs count toward the 8-103 goals.	Ameren ComEd	AG City of Chicago CUB ICC Staff NRDC	
21	Savings from the Section 8-103 portion of an expanded EE program would count toward achievement of a utility’s Section 8-103 savings goal.	AG Ameren ComEd CUB ICC Staff NRDC		IPA
22	Savings from the entire expanded EE program would count toward achievement of a utility’s Section 8-103 savings goal.	Ameren	City of Chicago CUB ICC Staff NRDC	IPA ComEd

DRAFT – Matrix of All Issues (Consensus/Non-Consensus) Regarding Section 16-111.5B Energy Efficiency and Classification of Parties' Positions on Each Issue (6-14-13, 4:30pm)

#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
23	Savings from the Section 16-111.5B portion of an expanded EE program would count toward achievement of a utility's Section 16-111.5B savings goal, not the Section 8-103 savings goal.	AG Ameren ComEd CUB ICC Staff NRDC		IPA
24	Banking policies would not overlap between Sections 8-103 and 16-111.5B.	Ameren ComEd CUB ICC Staff NRDC		
25	There is no need for banking under Section 16-111.5B.	Ameren ComEd CUB ICC Staff NRDC		
26	Instead of banking, if a utility or vendor exceeds the performance specified for a year, the utility or vendor can be compensated for additional cost-effective savings achieved, as this would create an incentive for utilities and third party vendors to maximize the achievement of cost-effective energy efficiency.	CUB		
27	Banking rules for Section 16-111.5B EE programs would be the same as for Section 8-103 EE programs, but only for the duration of contracts put in place. There would be no banking for EE programs accepted for one year of implementation, only for EE programs accepted for two or three years.	AG Ameren ComEd NRDC	CUB	
28	Sections 8-103 and 16-111.5B EE budgets would be kept separate.	AG Ameren ComEd CUB ICC Staff NRDC		
29	Funds approved pursuant to Section 16-111.5B could not be spent on EE programs that were not approved in the procurement plan docket.	Ameren ComEd CUB ICC Staff NRDC		
30	EE program expansions would be expanded in such a way as to facilitate utility tracking of the original Section 8-103 portion and the Section 16-111.5B portion of the expanded EE program. (not expanded in exactly the same manner)	Ameren ComEd CUB ICC Staff NRDC		
31	Savings from expanded EE programs could be allocated based on the proportion of savings originally forecasted for the expansion. (may not be feasible unless the evaluation rules for 8-103 and 16-111.5B are the same – e.g., deeming NTG annually or across multiple years)	AG Ameren NRDC ComEd		

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#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
32	For general reporting purposes, it would be appropriate to report each Section’s EE goals, achieved savings, and budgets together to show the impact of the utilities’ EE portfolios across the state, in addition to separately, so that progress can be tracked separately for each EE portfolio.	AG Ameren ComEd CUB ICC Staff NRDC		
33 A	Evaluations for expanded EE programs could be presented in a single evaluation report with a clear delineation in the tables reporting the savings amount associated with the Section 8-103 portion of the expanded EE program and the savings amount associated with the Section 16-111.5B portion of the expanded EE program.	AG ComEd CUB ICC Staff	Ameren	
33 B	Section 16-111.5B EE evaluation reports should be provided to the Commission in a public docket, either reconciliation proceeding or savings docket.	AG CUB ICC Staff NRDC		Ameren ComEd IPA
34 A	If the IL-TRM in effect at the time of bid submittal is used for evaluation purposes for the Section 16-111.5B EE programs, then the evaluators will need to perform savings verification using two different IL-TRMs, one for the Section 16-111.5B EE measures (or Section 16-111.5B portion of the expanded EE program) and the other for the Section 8-103 EE measures (or Section 8-103 portion of the expanded EE program).	Ameren ComEd CUB ICC Staff		
34 B	Expanded 8-103 EE programs may operate under different rules than the third party vendor proposals submitted through the annual assessment (RFP process). Deal with this in the evaluation plans.		Ameren ComEd	
34 C	Expanded 16-111.5B portions of the expanded EE programs should operate under the same rules as the third party vendor proposals submitted through the annual assessment (RFP process).	Ameren ComEd CUB ICC Staff NRDC		
35	Similar to keeping reconciliation of revenues from Sections 8-103 and 16-111.5B in single rider reconciliation proceedings, the evaluations of the Section 16-111.5B EE programs would be filed in the utility’s Section 8-103 savings dockets for Commission review.	AG CUB ICC Staff	Ameren ComEd	
36	Evaluations of the Section 16-111.5B EE programs could be filed as a compliance filing in the procurement plan docket that the EE program was originally approved.	Ameren ComEd CUB	AG	NRDC
37	Sampling in evaluation (e.g., NTG) could occur on an expanded EE program-level basis, or could be based on each component of the expanded EE program (the Section 8-103 portion and the Section 16-111.5B portion of the expanded EE program), depending on the specific circumstance.	Ameren ComEd CUB ICC Staff		
38	Ex-post cost-effectiveness analysis should be performed for the Section 16-111.5B EE programs.	AG Ameren ComEd CUB ICC Staff NRDC		IPA

DRAFT – Matrix of All Issues (Consensus/Non-Consensus) Regarding Section 16-111.5B Energy Efficiency and Classification of Parties’ Positions on Each Issue (6-14-13, 4:30pm)

#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
39 A	Ex-post cost-effectiveness analysis should be performed using actual participation and the original IL-TRM used in modeling.	Ameren ComEd CUB ICC Staff NRDC		
39 B	Ex-post cost-effectiveness analysis should be performed using actual participation and the best available information (e.g., updated NTG).	ComEd ICC Staff		Ameren CUB
39 C	Ex-post cost-effectiveness analysis should be performed using actual participation and the original inputs (including avoided costs) used in modeling.	Ameren ICC Staff	ComEd	CUB
40	There must be a balance in the evaluation of Section 16-111.5B EE programs between the degree of evaluation and the size of the program, wherein larger programs justify more complete evaluations.	AG Ameren ComEd ICC Staff NRDC		CUB
41	To the extent parties are concerned with EE replacing power purchase needs under Section 16-111.5B, it would be appropriate for the IPA and procurement administrator in consultation with the utilities and/or evaluators to attempt to estimate the amount that the Section 16-111.5B EE programs reduce the IPA’s need to procure supply, to serve as a check on the utilities’ original estimate required by Section 16-111.5B(a)(3)(G), and to provide useful information to customers.	AG Ameren CUB ICC Staff NRDC		ComEd IPA
42	EE procured through Section 16-111.5B is intended to offset the purchase of energy supply and not allow utilities greater ease at meeting the statutory targets of the Section 8-103 EE programs.	CUB		
43	Utilities are not subject to penalties for failure to achieve the annual Section 16-111.5B energy savings goal.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
44	There is no annual savings goal for the Section 16-111.5B EE programs.		AG ICC Staff NRDC IPA CUB	
45	To the extent practicable, the contracts for the Section 16-111.5B EE programs should be written as supply contracts.	Ameren CUB		
46	In general, the IL-TRM should be used for Section 16-111.5B EE programs.	AG Ameren ComEd CUB ICC Staff NRDC		IPA

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47	There may be special circumstances where deviation from the IL-TRM may be appropriate; the utility/vendor should have the option to make the case for the special circumstance. However, the IL-TRM values must also be provided for comparison purposes.	AG Ameren CUB ComEd ICC Staff NRDC		IPA
48	Section 16-111.5B EE programs should not be re-evaluated for cost-effectiveness once they are approved by the ICC.	CUB		
49	Since the Section 16-111.5B EE programs are procured as if supply, then re-negotiation or termination should not occur mid-contract due to a re-evaluation of cost-effectiveness and savings, as this would create uncertainty for third party vendors and reduce the number of bids from third party vendors. Termination can occur for performance based reasons.	CUB	AG Ameren ComEd ICC Staff NRDC	IPA
50	There is no risk of expending funds imprudently unwisely with a “pay-for performance” contract.	CUB	ICC Staff	
51	Not all Section 16-111.5B EE programs should necessarily be evaluated.	AG NRDC	ComEd	
52	Expanded EE programs would receive one evaluation.	AG NRDC		
53	Separate programs, contracts, and budgets does not allow for a combined evaluation budget (nor expansion of EE programs) and thus operational efficiencies for evaluation does not occur.	Ameren		
54	Multi-year EE procurement is allowed in the context of the annual EE procurement plan proceeding.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
55 A	The length of multi-year EE procurements should be restricted to the Section 8-103 planning timeframes.	AG ComEd CUB NRDC	ICC Staff	Ameren IPA
55 B	At this time, restricting multi-year EE procurements to three years and allowing deeming of IL-TRM used at time of bid submission would be appropriate for EE programs approved pursuant to Section 16-111.5B, including the Section 16-111.5B portion of an expanded EE program.	AG Ameren ComEd CUB ICC Staff		
55 C	Utilities should include bid reviews in their EE assessments submitted to the IPA (similar to ComEd last year) (would be confidential).	AG Ameren ComEd CUB ICC Staff NRDC		

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#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
55 D	Utilities should include all bids in their EE assessments submitted to the IPA (similar to Ameren last year).	Ameren ComEd CUB ICC Staff NRDC		
55E	Even if bidders submit three year bids, there should be the option to limit the bid to a single year (e.g., if it is not a “proven” program).	AG Ameren ComEd ICC Staff	CUB	
56	It’s appropriate to structure Section 16-111.5B EE contracts as “pay-for-performance”.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
57	Utilities should have flexibility to structure Section 16-111.5B EE contracts in a manner which best balances the potentially competing objectives of making the procurement process attractive to as many bidders as possible and providing confidence that the savings which are proposed/bid will actually be delivered.	AG Ameren ComEd CUB ICC Staff NRDC		
58	Parties should work toward agreeing upon a set of principles for Section 16-111.5B EE contract design.	CUB		
59	No legal requirement for Section 16-111.5B EE contracts to be structured around a “pay-for performance” structure.	AG Ameren ComEd ICC Staff NRDC		IPA CUB
60	Due to Section 16-111.5B(a)(5) indicating that the utility procurement of the additional EE is not subject to the requirements of Section 16-111.5(e), this means there should be no accountability or review or evaluation of the Section 16-111.5B EE programs (only expanded Section 8-103 EE programs).	Ameren	AG CUB ICC Staff NRDC	
61 A	TRM values “in effect” at time of bid submission should be deemed, where “in effect” means the most recent Commission approved IL-TRM.	Ameren ComEd CUB ICC Staff		NRDC
61 B	NTG – not included in IL-TRM. Bidders include a NTG in bids and utilities adjust based on reasonableness. Utilities can include justification for NTG in submittal and if uncontested, it can be deemed for term of contract if NTG approved by Commission.	Ameren ComEd ICC Staff	AG CUB NRDC	
61 C	Limit to three year EE procurement under Section 16-111.5B and then can deem NTG for those three years for EE programs approved pursuant to Section 16-111.5B, including the Section 16-111.5B portion of an expanded EE program.	AG Ameren ComEd CUB ICC Staff	NRDC	

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#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
62	IL-TRM values in effect at time of Commission approval should be deemed.	AG NRDC	Ameren ComEd ICC Staff	
63	IL-TRM values “in effect” at time of bid submission should be deemed for the length of time the Commission approves the Section 16-111.5B EE program, including the Section 16-111.5B portion of an expanded EE program, where “in effect” means the most recent Commission-approved IL-TRM.	AG Ameren ComEd CUB ICC Staff		NRDC
64	IL-TRM values in effect at time of Commission approval should be deemed for only the first year of EE program implementation.	AG NRDC	Ameren CUB ComEd	
65	To enable bidders to use the IL-TRM values in effect at time of Commission approval in submitting their bid, the utilities could conduct the annual solicitation (RFP) when the consensus Updated IL-TRM is available.	ICC Staff	Ameren ComEd	
66	There is prudence accountability in a docketed proceeding but no docketed proceeding for savings goals is required per Section 16-111.5B.	Ameren ComEd ICC Staff IPA NRDC		CUB
67	Only expanded Section 16-111.5B EE programs should be evaluated, the other Section 16-111.5B EE programs do not need to be evaluated.	Ameren	ComEd	
68	Evaluation is consistent with the law in that it verifies that savings are in fact occurring to offset power procurement needs, and process evaluation is justified to encourage improvement in the implementation of the EE programs.	CUB ICC Staff	ComEd	
69	Expenditures on evaluation should be capped for the Section 16-111.5B EE programs as they are for the Section 8-103 EE programs.	Ameren ComEd CUB ICC Staff NRDC		
70	Bidders should include the cost of evaluation and the proposed methodology in responses to the utility RFPs.	CUB	AG ComEd ICC Staff	
71	Ex-post evaluation results should only be used prospectively to adjust TRM values, NTG and forecast savings.	AG Ameren ComEd CUB NRDC	ICC Staff	
72	NTG values should be deemed for the length of the Section 16-111.5B EE contract.	CUB	AG NRDC	
73	Changes in NTG assumptions should be made through consensus of the SAG.	AG NRDC	Ameren ComEd	CUB
74	Evaluation of the expanded Section 16-111.5B portion and the original Section 8-103 portion of an expanded EE program must use only one set of rules in the evaluation; the expanded EE program would need to be evaluated using either the Section 8-103 rules or the Section 16-111.5B rules for both portions of the expanded EE program.	AG Ameren NRDC	CUB ICC Staff	

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#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
75	Evaluation of the expanded Section 16-111.5B portion and the original Section 8-103 portion of an expanded EE program should be evaluated using the Section 8-103 rules for both portions of the expanded EE program.	AG Ameren NRDC	CUB ICC-Staff	
76	Evaluation of the expanded Section 16-111.5B portion and the original Section 8-103 portion of an expanded EE program should be evaluated using the Section 16-111.5B rules for both portions of the expanded EE program.	Ameren	ICC-Staff	
77	Evaluation of the expanded Section 16-111.5B portion and the original Section 8-103 portion of an expanded EE program can be evaluated using the Section 8-103 rules for the original Section 8-103 portion of the expanded EE programs and the Section 16-111.5B rules for the expanded Section 16-111.5B portion of the expanded EE program.	CUB ICC Staff	AG Ameren NRDC	
78	Annual adjustments to TRM values should affect multi-year EE programs.	AG NRDC	Ameren ComEd CUB	
79	Section 16-111.5B EE programs may be included in the IL-TRM update process.	AG Ameren ComEd CUB ICC Staff NRDC		IPA
80	Section 16-111.5B EE programs should be included in the IL-TRM and NTG ratio development processes <i>only</i> if the programs are at least partially included in the Section 8-103 EE portfolio as well.	CUB	ICC-Staff	
81	There are no goals, budgets, or affected supply requirements in explicitly specified in Section 16-111.5B.	Ameren ComEd CUB IPA ICC Staff	ICC-Staff	
82	Ex-post evaluation results should be applied retrospectively for custom savings calculations.	AG ComEd CUB ICC Staff NRDC	Ameren	IPA
83	Utilities should be responsible for prudently administering the contracts with third party vendors.	CUB ICC Staff	ComEd	
84	Section 16-111.5B does not require the utility to be responsible for determining what vendors should be contracted for what amount of savings.	Ameren ComEd CUB ICC Staff IPA NRDC		
85	Failure of third party EE vendors to perform will likely not trigger a contingency event pursuant to Section 16-111.5(e)(5)(ii), and instead will be handled by day-ahead balancing pursuant to Section 16-111.5(e)(5)(iii) (similar to other imbalances, such as oversupply).	CUB ICC Staff IPA		

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#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
86	The IPA and utilities have existing mechanisms and strategies for addressing generator default on supply contracts and these mechanisms and strategies should be applied to EE vendors to the extent practicable.	CUB		
87	Utilities should only sign pay for performance contracts with vendors to minimize ratepayer risk if a vendor is unable to fulfill its savings obligation under the contract.	CUB		
88	The utility has an obligation to prudently management the contracts for vendors that the utility is not responsible for selecting.		Ameren	
89	There should be a grace period for non-consensus IL-TRM updates and NTG changes.	AG NRDC	Ameren ComEd CUB ICC Staff	
90 A	Cost-ineffective EE programs should be dropped.	AG Ameren ComEd ICC Staff NRDC	CUB	IPA
90 B	If program becomes cost-ineffective during life of program, then it should be dropped.	AG NRDC	Ameren ComEd	
90 C	Cost-ineffective programs should be dropped during proceeding.	Ameren ComEd CUB ICC Staff IPA NRDC		
90 D	Need clear set of rules for determining whether to drop program.	AG Ameren	ICC Staff	
91	Some degree of flexibility in implementation of Section 16-111.5B EE programs could be allowed.	AG Ameren ComEd ICC Staff IPA NRDC	CUB	
92	There is no need for adjustments to the Section 16-111.5B energy savings goals since there are no penalties and if the IL-TRM values are deemed.	Ameren ComEd CUB ICC Staff	AG NRDC	
93	EE rider reconciliation proceedings are the appropriate venues for reviewing adjustments.	CUB ICC Staff	ComEd	
94	A straightforward NTG framework providing for prospective deemed values (not necessarily for all three years) would ensure the highest degree of productivity and least cost to ratepayers.	Ameren ComEd		
95	Vendors should not be held accountable to changes in values or the market after a program has already been determined to be cost-effective.	Ameren CUB	ComEd ICC Staff	
96 A	Section 16-111.5B EE programs should be managed by the utilities as a portfolio.	AG NRDC	Ameren ComEd CUB	

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#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
96 B	Excess 8-103 funds should be allowed to be used on 16-111.5B programs toward the end of the year (e.g., SB DI). Savings allocation would first count toward the 16-111.5B program goal approved in the IPA procurement docket, and excess would count toward 8-103 goal.	Ameren ComEd CUB NRDC	AG	IPA
97	Funding can be shifted between Sections 8-103 and 16-111.5B EE portfolios.	AG Ameren NRDC	ComEd CUB ICC Staff	IPA
98	Funding can be shifted between the Commission approved Section 16-111.5B EE programs.	AG Ameren ComEd ICC Staff NRDC	CUB	IPA
99	Funding should not be shifted amongst the Section 16-111.5B EE programs.	Ameren CUB	AG ComEd NRDC	IPA
10 0A	If approved by the Commission, the Section 16-111.5B funding for each EE program can be increased for overachieving EE programs and/or decreased for underachieving EE programs.	Ameren ComEd ICC Staff NRDC	AG CUB	
10 0B	Program funding budgets may exceed the amounts specified in the procurement plan filings if the programs are overachieving the savings amount specified in the procurement plan filings.	Ameren ComEd CUB ICC Staff NRDC	AG	
10 0C	Under the pay for performance contract, the ICC could authorize on a program basis, a maximum energy savings achieved and spending cap.	AG Ameren ComEd ICC Staff NRDC		CUB
10 0D	The Commission may authorize on a program basis an expected spending level and the spending level cap.	AG Ameren ComEd ICC Staff		CUB
10 0E	On a program by program basis, the Commission may authorize a range above a budgeted program amount to allow for operational flexibility.	Ameren ComEd ICC Staff NRDC	AG	CUB
10 1A	The Commission can consider additional criteria (e.g., Section 16-111.5B(a)(3)(D)-(E)) beyond cost-effectiveness in approving programs proposed by the IPA.	ICC Staff	AG NRDC	ComEd CUB IPA
10 1B	The Commission can consider additional criteria (e.g., bidder reputability) beyond cost-effectiveness in approving programs proposed by the IPA.	ICC Staff		ComEd

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#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
10 2	The Total Resource Cost (“TRC”) test should be calculated at the program or measure level.	AG Ameren ComEd CUB ICC Staff IPA NRDC		
10 3	The Total Resource Cost (“TRC”) test should be calculated at the portfolio level for Section 16-111.5B EE programs.	AG NRDC	Ameren ComEd CUB ICC Staff IPA	
10 4	The utilities should provide public access to the Total Resource Cost (“TRC”) test screening tools.	AG Ameren CUB IPA NRDC	ComEd	
10 5	Section 16-111.5B(a)(3)(D) can be interpreted as the Utility Cost Test (“UCT”).	AG Ameren ComEd ICC Staff NRDC		CUB IPA
10 6	Section 16-111.5B(a)(3)(D) should be used by the utilities to screen programs.	ComEd ICC Staff	AG Ameren CUB NRDC	
10 7	Section 16-111.5B(a)(3)(D) should be calculated for each program.	Ameren ComEd CUB ICC Staff NRDC		IPA
10 8	Section 16-111.5B(a)(3)(D) should be calculated only for the portfolio.	CUB	ComEd ICC Staff	
10 9	Section 16-111.5B(a)(3)(D) can be interpreted as the Ratepayer Impact Measure (“RIM”) test.	Ameren	AG ComEd ICC Staff NRDC	
11 0	Section 16-111.5B(a)(3)(E) can be interpreted as the Total Resource Cost (“TRC”) test.	AG Ameren ICC Staff NRDC		ComEd
11 1	Section 16-111.5B(a)(3)(E) can be interpreted as the Cost of Conserved Energy (“CCE”).	ComEd ICC Staff	AG NRDC	Ameren
11 2	Section 16-111.5B(a)(3)(E) can be interpreted as the Utility Cost Test (“UCT”).	Ameren	ICC Staff NRDC	ComEd

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#	Issue/Position regarding Section 16-111.5B EE only (not 8-103 EE)	Support	Oppose	Neutral
11 3	The Commission should determine how the additional information provided pursuant to Section 16-111.5B(a)(3)(D)-(E) should be used (i.e., litigate).	AG Ameren ComEd CUB ICC Staff IPA NRDC		