

## **Appendix A**

### **Legislative Compliance Index**

Recognizing the multiple, overlapping legal requirements for the Procurement Plan, the IPA has assembled an index of the requirements under Section 1-75 of the IPA Act and 16-111.5 and 111.5B of the Public Utilities Act and a citation for which section(s) of the plan address each of the requirements and/or standards. The IPA notes that although the list is intended to be broad, it is not comprehensive of every legal requirement related to the Procurement Plan. Omission of a statutory or other requirement should not be interpreted as waiver of the requirement by the IPA or a suggestion that the Commission criteria for review should be altered in any way.

## Section Legal Authority

### Plan Requirements

#### 220 ILCS 5/16-111.5(b)

- App A • “A procurement plan shall be prepared for each electric utility consistent with the applicable requirements of the Illinois Power Agency Act and this Section.” (b)
- Ch. 4.0 • “Each procurement plan shall analyze the projected balance of supply and demand for eligible retail customers over a 5-year period with the first planning year beginning on June 1 of the year following the year in which the plan is filed.” (b)
- 7.3, 8.0 • “The plan shall specifically identify the wholesale products to be procured following plan approval” (b)
- App A • “[The plan] shall follow all the requirements set forth in the Public Utilities Act and all applicable State and federal laws, statutes, rules, or regulations, as well as Commission orders.” (b)
- 3.2, 3.3
  - *Id.*
  - *Id.*
  - *Id.*
  - *Id.*
- 3.4.8,  
3.4.9
  - *Id.*,  
7.5
- 3.4.8
  - (i) multi-year historical analysis of hourly loads;
  - (ii) switching trends and competitive retail market analysis;
  - (iii) known or projected changes to future loads; and
  - (iv) growth forecasts by customer class.” (b)(1)
- “Analysis of the impact of any demand side and renewable energy initiatives. This analysis shall include:
  - (i) the impact of demand response programs and energy efficiency programs, both current and projected; for small multi-jurisdictional utilities, the impact of demand response and energy efficiency programs approved pursuant to Section 8-408 of this Act, both current and projected; and
  - (ii) supply side needs that are projected to be offset by purchases of renewable energy resources, if any.” (b)(2)
- Ch. 7.0 • “A plan for meeting the expected load requirements that will not be met through preexisting contracts. This plan shall include:
  - (i) definitions of the different Illinois retail customer classes for which supply is being purchased;
  - (ii) the proposed mix of demand-response products for which contracts will be executed during the next year. For small multi-jurisdictional electric utilities that on December 31, 2005 served fewer than 100,000 customers in Illinois, these shall be defined as demand-response products offered in an energy efficiency plan approved pursuant to Section 8-408 of this Act. The cost-effective demand-response measures shall be procured whenever the cost is lower than procuring comparable capacity products, provided that such products shall:

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- 7.5
      - (A) be procured by a demand-response provider from eligible retail customers;
    - 7.5
      - (B) at least satisfy the demand-response requirements of the regional transmission organization market in which the utility's service territory is located, including, but not limited to, any applicable capacity or dispatch requirements;
    - 7.5
      - (C) provide for customers' participation in the stream of benefits produced by the demand-response products;
    - 7.5
      - (D) provide for reimbursement by the demand-response provider of the utility for any costs incurred as a result of the failure of the supplier of such products to perform its obligations thereunder; and
    - 7.5
      - (E) meet the same credit requirements as apply to suppliers of capacity, in the applicable regional transmission organization market;
  - Ch.4.0,  
App.B  
&C
  - 7.3
    - (iii) monthly forecasted system supply requirements, including expected minimum, maximum, and average values for the planning period;
    - (iv) the proposed mix and selection of standard wholesale products for which contracts will be executed during the next year, separately or in combination, to meet that portion of its load requirements not met through pre-existing contracts, including but not limited to monthly 5 x 16 peak period block energy, monthly off-peak wrap energy, monthly 7 x 24 energy, annual 5 x 16 energy, annual off-peak wrap energy, annual 7 x 24 energy, monthly capacity, annual capacity, peak load capacity obligations, capacity purchase plan, and ancillary services;
    - 7.3
      - (v) proposed term structures for each wholesale product type included in the proposed procurement plan portfolio of products; and
    - Chs.  
5.0,  
6.0,  
7.0
      - (vi) an assessment of the price risk, load uncertainty, and other factors that are associated with the proposed procurement plan; this assessment, to the extent possible, shall include an analysis of the following factors: contract terms, time frames for securing products or services, fuel costs, weather patterns, transmission costs, market conditions, and the governmental regulatory environment; the proposed procurement plan shall also identify alternatives for those portfolio measures that are identified as having significant price risk.”
  - 6.2-6.3
    - “The procurement plan shall include, for load requirements included in the procurement plan, the process for
      - *Id.*
        - (i) hourly balancing of supply and demand and
      - 6.3,  
7.3
        - (ii) the criteria for portfolio re-balancing in the event of significant shifts in load.” (b)(4)

## Section Legal Authority

### Approval Procedure

#### 220 ILCS 5/16-111.5:

- App A
  - “Approval and implementation of the procurement plan shall be subject to review and approval by the Commission according to the provisions set forth in this Section.” (b)
- 3.2, 3.3
  - “[E]ach 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.” (d)(1)
- *Passim*
  - “[T]he 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” (d)(2)
- Cover Memo
  - “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.” (d)(2)
- *Id.*
  - “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 shall be posted on the Agency's and Commission's websites.” (d)(2)
- *Id.*
  - “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.” (d)(2)
- TBA
  - “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.” (d)(2)
- TBA
  - “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.” (d)(4)

#### 20 ILCS 3855/1-75:

- Cover Memo
  - “The draft procurement plans are subject to public comment, as required by Section 16-111.5 of the Public Utilities Act.” (e)
- TBA
  - “The Agency shall submit the final procurement plan to the Commission.” (f)

## Section Legal Authority

### Types of Renewable Resources

#### 20 ILCS 3855/1-75(c):

- Ch. 8.0
  - “The plan shall include cost-effective renewable resources” (c)(1)
- 8.1
  - “A minimum percentage of each utility's total supply to serve the load of eligible retail customers, as defined in Section 16-111.5(a) of the Public Utilities Act, procured for each of the following years shall be generated from cost-effective renewable energy resources: at least . . . 8% by June 1, 2013” (c)(1)
- 8.1
  - “To the extent that it is available, at least 75% of the renewable energy resources used to meet these standards shall come from wind generation” (c)(1)
- 8.1
  - “[To the extent that it is available,] at least the following percentages of the renewable energy resources used to meet these standards shall come from photovoltaics on the following schedule: . . . 1.5% by June 1, 2013” (c)(1)
- 8.2
  - “Of the renewable energy resources procured pursuant to this Section, at least the following percentages shall come from distributed renewable energy generation devices: 0.5% by June 1, 2013” (c)(1)
- 8.2
  - “To the extent available, half of the renewable energy resources procured from distributed renewable energy generation shall come from devices of less than 25 kilowatts in nameplate capacity.” (c)(1)
- 8.2
  - “Procurement of renewable energy resources from distributed renewable energy generation devices shall be done on an annual basis through multi-year contracts of no less than 5 years, and shall consist solely of renewable energy credits.” (c)(1)
- 8.1
  - “[C]ost-effective renewable energy resources located in Illinois and in states that adjoin Illinois may be counted towards compliance with the standards set forth in paragraph (1) of this subsection (c). If those cost-effective resources are not available in Illinois or in states that adjoin Illinois, they shall be purchased elsewhere and shall be counted towards compliance.” (c)(3)

### Evaluation of Renewable Resource Prices:

#### 20 ILCS 3855/1-75(c)

- 8.1
  - “For purposes of this subsection (c), "cost-effective" means that the costs of procuring renewable energy resources do not cause the limit stated in paragraph (2) of this subsection (c) to be exceeded and do not exceed benchmarks based on market prices for renewable energy resources in the region, which shall be developed by the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor and shall be subject to Commission review and approval.” (c)(1)

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- 8.1            • “For purposes of this subsection (c), the required procurement of cost-effective renewable energy resources for a particular year shall be measured as a percentage of the actual amount of electricity (megawatt-hours) supplied by the electric utility to eligible retail customers in the planning year ending immediately prior to the procurement. For purposes of this subsection (c), the amount paid per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For purposes of this subsection (c), the total amount paid for electric service includes without limitation amounts paid for supply, transmission, distribution, surcharges, and add-on taxes.” (c)(2)
  
- 8.2            • Notwithstanding the requirements of this subsection (c), the total of renewable energy resources procured pursuant to the procurement plan for any single year shall be reduced by an amount necessary to limit the annual estimated average net increase due to the costs of these resources included in the amounts paid by eligible retail customers in connection with electric service to: . . . (E) . . . the amount of renewable energy resources procured pursuant to the procurement plan for any single year shall be reduced by an amount necessary to limit the estimated average net increase due to the cost of these resources 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 resources in 2011.” (c)(2)

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Clean Coal Portfolio Standard, Generally

20 ILCS 3855/1-75(d):

- 7.6 • “The procurement plans shall include electricity generated using clean coal.” (d)(1)
- N/A • “It is the goal of the State that by January 1, 2025, 25% of the electricity used in the State shall be generated by cost-effective clean coal facilities.” (d)(1)
- N/A • “For purposes of this subsection (d), ‘cost-effective’ means that the expenditures pursuant to such sourcing agreements do not cause the limit stated in paragraph (2) of this subsection (d) to be exceeded and do not exceed cost-based benchmarks, which shall be developed to assess all expenditures pursuant to such sourcing agreements covering electricity generated by clean coal facilities, other than the initial clean coal facility, by the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor and shall be subject to Commission review and approval.” (d)(1)
- N/A • “Notwithstanding the requirements of this subsection (d), the total amount paid under sourcing agreements with clean coal facilities pursuant to the procurement plan for any given year shall be reduced by an amount necessary to limit the annual estimated average net increase due to the costs of these resources included in the amounts paid by eligible retail customers in connection with electric service to: . . . (E) . . . the total amount paid under sourcing agreements with clean coal facilities pursuant to the procurement plan for any single year shall be reduced by an amount necessary to limit the estimated average net increase due to the cost of these resources included in the amounts paid by eligible retail customers in connection with electric service to no more than the greater of (i) 2.015% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009 or (ii) the incremental amount per kilowatthour paid for these resources in 2013. These requirements may be altered only as provided by statute.” (d)(2)

Clean Coal Retrofit Provision

20 ILCS 3855/1-75(d)(5):

- 7.6 • “Re-powering and retrofitting coal-fired power plants previously owned by Illinois utilities to qualify as clean coal facilities. During the 2009 procurement planning process and thereafter, the Agency and the Commission shall consider sourcing agreements covering electricity generated by power plants that were previously owned by Illinois utilities and that have been or will be converted into clean coal facilities, as defined by Section 1-10 of this Act.” (d)(5)
- 7.6 • “Pursuant to such procurement planning process, the owners of such facilities may propose to the Agency sourcing agreements with utilities and alternative

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retail electric suppliers required to comply with subsection (d) of this Section and item (5) of subsection (d) of Section 16-115 of the Public Utilities Act, covering electricity generated by such facilities.” (d)(5)

- 7.6            • “In the case of sourcing agreements that are power purchase agreements, the contract price for electricity sales shall be established on a cost of service basis.” (d)(5)
- 7.6            • “In the case of sourcing agreements that are contracts for differences, the contract price from which the reference price is subtracted shall be established on a cost of service basis.” (d)(5)
- 7.6            • “The Agency and the Commission may approve any such utility sourcing agreements that do not exceed cost-based benchmarks developed by the procurement administrator, in consultation with the Commission staff, Agency staff and the procurement monitor, subject to Commission review and approval.” (d)(5)



## Section Legal Authority

### Energy Efficiency Procurement

#### 20 ILCS 3855/1-10

- 3.4.8, 7.2 • “‘Energy efficiency’ means measures that reduce the amount of electricity or natural gas required to achieve a given end use.”

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

- 3.4.10, App.B & C • “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.” (a)(1)
- 7.2 • “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.” (a)(2)
- 7.2 • “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.” (a)(3)
- 7.2 • “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).” (a)(4)

### Cost-Effective Energy Efficiency/Total Resource Cost Test

#### 220 ILCS 5/16-111.5B(b)

- 7.2 • “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.” (b)
- 7.2 • “[T]he estimated costs to acquire an additional energy efficiency measure, when divided by the number of kilowatt-hours expected to be saved over the life of the measure, shall be less than or equal to the electricity costs that would be avoided as a result of the energy efficiency measure.” (b)

#### 220 ILCS 5/8-103(a)

- 7.2 • “‘[C]ost-effective’ means that the measures satisfy the total resource cost test.”

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20 ILCS 3855/1-10

- 7.2
  - “‘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.”