

**CONSTELLATION ENERGY GENERATION, LLC'S COMMENTS ON THE  
ILLINOIS POWER AGENCY'S DRAFT PROCUREMENT PLAN**

Pursuant to the Illinois Power Agency Act and the Public Utilities Act, Constellation Energy Generation, LLC (“Constellation”) submits these comments to the Illinois Power Agency (“IPA”) regarding the August 15, 2022 draft Electricity Procurement Plan (“Draft Plan”).

Constellation Energy Generation, LLC (“Constellation”) is the nation’s largest producer of carbon-free energy and the leading competitive retail supplier of power and energy products and services for homes and businesses across the United States. Our generation fleet powers more than 20 million homes with more than 32,400 megawatts of capacity and annual output that is 90 percent carbon-free, including five nuclear generation resources in Illinois. Constellation is a power marketer authorized by the Federal Energy Regulatory Commission to sell energy and capacity and certain ancillary services at market-based rates, serving the needs of distribution utilities, co-ops and municipalities that competitively source their load requirements. Constellation also bids energy, capacity and ancillary services into the markets administered by PJM Interconnection, L.L.C. and the Midwest Independent Transmission System Operator, Inc.

Constellation, individually in its own name or through its predecessors or subsidiaries, has participated in the competitive procurement processes under which contracts for the electricity needs of Ameren and ComEd have been awarded since the end of the transition period in 2006. Based upon its experiences in procurement events in Illinois and elsewhere, Constellation has a recommendation to improve the draft Plan as set forth below.

**I. INTRODUCTION**

Constellation commends the IPA for its timely release of the Draft Plan and appreciates the significant thought that has gone into the draft as well as the opportunity to provide comments.

The IPA has offered a program structure and implementation process that adheres to the requirements of the IPA Act and the Public Utilities Act. In the following sections, Constellation will offer recommendations on how to improve on the Draft Plan.

## **II. RECOMMENDED CHANGE AND CLARIFICATION TO THE DRAFT PLAN**

### **a. Timing of Notification**

Constellation recommends that the time between bids and notification to winning bidders be shortened, to the greatest extent possible. Currently, bidders are getting notification late in the day after the auction concludes, after the ability to trade that day is effectively foreclosed, or sometimes getting notice the next day.

When bidding into utility default procurement auctions, a bidder will hold the transaction open at the specified price until the bidder knows that the bid was successful. Then the bidder will go to market to hedge the award. While there has always been a risk associated with keeping a price open, the price hold risk is high in the current market environment, especially for overnight price holds. Consequently, the price hold premium is a non-trivial portion of the bid, many multiples higher than has been the case historically.

If the Auction Manager can shorten window to provide notice to winning bidders substantially before close of business on the day the auction closes, that would help so that winning bidders can trade that day. Auctions for different planning years could be held on consecutive days, if needed. But ensuring notice on the day of the auction, in sufficient time to allow same-day trading, would not only benefit bidders but would reduce price hold premiums that are ultimately born by eligible retail customers.

### **b. Clarification on Bidder Opportunity to Comment on Changes**

Constellation applauds the IPA for recognizing and reducing the administrative burdens and costs on bidders and on the procurement administrator for future procurements in the Draft Plan. The IPA has indicated that for energy blocks, certain documents and processes could be streamlined for the Fall procurement event, relying on documents and processes established for the Spring procurement event, specifically:

- The procurement administrator will rely on the contract and credit forms established in the Spring 2023 procurement event, and suppliers would not comment anew on these documents;
- The procurement administrator will rely on the RFP design and updated benchmarks using the benchmark methodology established in the Spring 2023 procurement event;
- Suppliers that participate in the Spring 2023 procurement event will have access to an abbreviated qualification and registration process if they also participate in the Fall 2023 procurement event.

(Draft Plan pp. 101-102). These changes should be helpful in reducing the administrative requirements on prospective bidders, while preserving the integrity and effectiveness of the procurement events.

Constellation notes that the “the procurement administrator, in consultation with each utility, IPA, ICC Staff and Procurement Monitor, will not be prohibited from making minor changes to the contract and credit terms or minor changes to the RFP documents, including but not limited to clarifications or corrections.” (Draft Plan, p. 102). Elsewhere the IPA suggests that prospective bidders will have the opportunity to review and comment on proposed changes before they are implemented. “As was the case with the procurement events held from 2014 through 2022, the process to receive comments from potential bidders can be restricted to changes to the forms, thus reducing Procurement Administrator time and billable hours, while shortening the critical path time needed to conduct a procurement event.” (Draft Plan, p. 99). This provision

appears in the Draft Plan under the heading “Contract Forms”. Notably, “contract forms” are listed separately, though in conjunction with, “credit terms and instruments” under Section 16-111.5(e).

The language should be clarified that prospective bidders will have the opportunity to comment on credit terms and instruments and to changes to the RFP documents, as well as on changes to contract forms, by adding the language shown in legislative style: “As was the case with the procurement events held from 2014 through 2022, the process to receive comments from potential bidders can be restricted to changes to the forms (including contract forms, credit terms and instruments, and RFP documents), thus reducing Procurement Administrator time and billable hours, while shortening the critical path time needed to conduct a procurement event.”

The suggested change is beneficial to the competitiveness of the procurement events, and is consistent with the requirements of Section 16-111.5(e) of the Public Utilities Act, which specifies that the procurement process must include, among other things: “[s]tandard credit terms and instruments that meet generally accepted industry practices ... The procurement administrator shall make available to the Commission all written comments it receives on the contract forms, credit terms, or instruments.” (220 ILCS 5/16-111.5(e)(2)).

### **III. SUPPORT FOR DRAFT PLAN PROPOSALS**

Constellation commends the IPA for making changes to the Draft Plan from prior plans in ways that are expected to mitigate price volatility. First, the IPA expressed its intent to decrease the volume of energy to be procured in the Spring procurement for delivery in the immediate summer months that were formerly procured in the Spring and instead procure some of those volumes in earlier procurement events. (Draft Plan, pp. 81, 83-4). Spreading the procurements for summer delivery as envisioned by the IPA is likely to mitigate the potential adverse impact

that a price spike may have on default service rates during summer months. Second, the IPA modified its hedging strategy for Ameren capacity, procuring up to 75% in the bilateral procurement events, increased from a former strategy that procured up to 50% of Ameren's capacity needs in advance of the MISO PRA. (Draft Plan, p. 62) The recent volatility in capacity is a function of the results of the PRA that cleared in Zone 4 at the maximum: the Cost of New Entry (CONE). Procuring a higher percentage of capacity in advance of the PRA provides greater price certainty to eligible Ameren Illinois customers.

#### **IV. CONCLUSION**

Constellation recommends that the recommended changes and clarifications described herein be incorporated into the Draft Plan.