STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Power Agency	)	
	)	ICC Docket No. 22-______
Petition for Approval of the 2023 IPA	)	
Electricity Procurement Plan Pursuant to	)	
Section 16-111.5(d)(4) of the	)	
Public Utilities Act	)	

VERIFIED PETITION FOR APPROVAL OF THE ILLINOIS POWER AGENCY'S 2023 ELECTRICITY PROCUREMENT PLAN PURSUANT TO 220 ILCS 5/16-111.5(d)(4)

Pursuant to the authority granted by the Illinois Power Agency Act, 20 ILCS 3855/1-5, *et seq.*, and the Illinois Public Utilities Act, 220 ILCS 5/1-101, *et seq.*, the Illinois Power Agency ("IPA" or "Agency") hereby submits to the Illinois Commerce Commission ("Commission" or "ICC") for consideration and approval its proposed plan for the procurement of electricity for certain customers of Ameren Illinois Company ("Ameren Illinois"), Commonwealth Edison Company ("ComEd"), and MidAmerican Energy Company ("MidAmerican") (collectively referred to as the "Utilities") through the Electricity Procurement Plan for the period of June 2023 through May 2028 (the "2023 Plan" or "Plan") accompanying this Verified Petition.

The 2023 Plan sets forth recommendations related to the procurement of electricity, capacity, and associated transmission services to meet the load requirements and supply needs of eligible retail customers[1] served by the Utilities. The Plan is designed to meet the statutory mandate "to ensure adequate, reliable, affordable, efficient, and environmentally sustainable

[1] "Eligible retail customers" are defined in Section 16-111.5(a) of the Public Utilities Act as "those retail customers that purchase power and energy from the electric utility under fixed-price bundled service tariffs, other than those retail customers whose service is declared or deemed competitive under Section 16-113 and those other customer groups specified in this Section, including self-generating customers, customers electing hourly pricing, or those customers who are otherwise ineligible for fixed-price bundled tariff service." 220 ILCS 5/16-111.5(a).

electric service at the lowest total cost over time, taking into account any benefits of price stability."[2]

In accordance with Section 16-111.5(d)(3) of the Illinois Public Utilities Act ("PUA" or the "Act"), the Commission is required to enter its order confirming or modifying the Plan within 90 days after filing, on or before December 27, 2022. The IPA respectfully requests that the Commission confirm and approve the 2023 Plan submitted with this Petition.

PROCEDURAL BACKGROUND

In accordance with Section 16-111.5(d)(2) of the PUA, and after timely receipt of the Utilities' load forecasts on or before July 15, 2022, the IPA posted its draft of the 2023 Electricity Procurement Plan to its website on August 15, 2022 (hereinafter the "Draft Plan").[3] Utilities and other interested parties were given thirty days following the date of the posting to provide comments to the IPA on the Draft Plan; the Act requires such comments to 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."[4] Under the Act, the IPA had fourteen days under following the end of the 30-day review period to revise the Draft Plan as necessary based on the comments and to file the Plan with the Commission. The accompanying Plan represents that filing.

Following submission of the 2023 Plan, within five days, any person objecting to the Plan may file its objection with the Commission.[5] Objections to the 2023 Plan are thus required to be

[2] 220 ILCS 5/16-111.5(d)(4).
[3] *See* 220 ILCS 5/16-111.5(d)(2).
[4] Id.
[5] 220 ILCS 5/16-111.5(d)(3).

filed with the Commission in the resulting docketed proceeding by Monday, October 3, 2022, and any party seeking to appear or intervene should do so prior to submitting objections.

COMMENTS ON THE DRAFT PLAN

The PUA requires the IPA to hold at least one public hearing within each utility's service area to receive public comment on the Draft Plan.[6] Consistent with the Agency's practice since 2020 and in accordance with the Act, the IPA held these three public hearings virtually over the Zoom platform on September 7, 2022, with the participation links for those hearings published within the notice of the Draft Plan's release. As with many past years, no parties provided public comments at the three public hearings held by the IPA.

Written comments on the Draft Plan were received from Ameren Illinois, ComEd, Constellation Energy Generation, LLC ("Constellation"), the Staff of the Illinois Commerce Commission ("Staff"), MidAmerican, and Mr. Sameer Doshi. This represents an increase in the number of commenters from recent years. Two issues in particular garnered significant comment. First, Public Act 102-0662 required the Agency to develop a Carbon Mitigation Credit Plan, which certain commenters believe acts as a hedge against high electricity prices in the ComEd territory. Second, the Federal Energy Regulatory Commission ("FERC") decided in Docket Nos. ER22-495-000 and ER22-495-001 to approve changes proposed by the Midcontinent Independent System Operator, Inc. ("MISO") altering the construct of capacity products available in the MISO (and therefore, the Ameren Illinois) service territory.

The Agency genuinely appreciates commentors' efforts in providing feedback and offering a thoughtful analysis of the IPA's Draft Plan. While all comments were carefully considered by

[6] 220 ILCS 5/16-111.5(d)(2).

the Agency, not all proposals submitted for consideration were accepted. There are four notable areas the IPA wishes to highlight for the Commission in this Petition: (1) modifications to the 2023 Plan in light of comments regarding the hedge that Carbon Mitigation Credits may provide to eligible retail customers; (2) modifications to the capacity hedging strategy/process in light of the FERC Order referenced above; (3) comments on the Draft Plan which were not adopted; and (4) other potential issues which were not raised in comments on the Draft Plan but the IPA nonetheless finds noteworthy.

I. Hedging Strategy Modifications due to Carbon Mitigation Credits

The filed 2023 Plan includes changes to the IPA's energy hedging strategy in light of comments provided by ComEd[7]—although stopping short of adopting the massive reduction in energy hedging levels sought by ComEd. A brief overview is included below.

The IPA's traditional energy hedging strategy (and the hedging strategy still used in the Plan for Ameren Illinois and MidAmerican) involves procuring either 100% (in non-summer months) or 106% (in summer months) of forecast eligible retail customer load in a laddered fashion across three delivery years. This laddered hedging strategy ensures that customers are protected against rate instability in times of unexpectedly high wholesale prices, as much of the supply used to meet their load will have been procured in advance when prices were more stable. Were that load unhedged (i.e., were supply not procured at sufficient levels in advance), then customers would ultimately be charged the prevailing prices in day-ahead and real-time markets for unhedged load, with the difference between expected energy supply costs and actual energy supply costs settled monthly on eligible retail customers' bills through the Purchased Electricity Adjustment. In approving the IPA's annual plan, the Commission has repeatedly recognized that this three-year

[7] See Section 6.9.1.

laddered hedging approach at these 100%/106% forecast load levels indeed provides "the lowest total cost over time, taking into account any benefits of price stability."[8]

Separately, Public Act 102-0662 introduced new Section 1-75(d-10) of the IPA Act into Illinois law, requiring that the IPA develop a carbon mitigation credit procurement plan and conduct a carbon mitigation credit procurement process to ensure that certain at-risk nuclear plants remain online. Fees (or refunds) associated with the price of carbon mitigation credits apply to all ComEd retail customers—not only those taking default supply. Under Section 1-75(d-10)(3)(C)(iii)(I) and a subsequent election made by the Seller (i.e., nuclear plant owner), carbon mitigation credits ("CMCs") are priced in part as follows:

> The CMC price for the selected carbon-free energy resources will be calculated on a monthly basis as follows: For each hour, the energy generation for each selected carbon-free energy resource for that hour would be multiplied by the applicable day-ahead busbar price for that hour. The sum of all those products for all the hours of the month for all carbon-free resources procured would then be divided by the total generation for the month from all carbon-free resources procured to determine the weighted-average hourly day-ahead price for use in the calculation of the CMC price for all the selected carbon-free energy resources that selected this energy price index.[9]

Stated more succinctly, as day-ahead wholesale energy prices rise, carbon mitigation credit prices fall accordingly—including into negative values that constitute a credit on ComEd retail customers' bills. Recent wholesale energy market outcomes have provided that very phenomenon.

ComEd's position is that because carbon mitigation credit contracts have "an offsetting effect when the price changes" for wholesale market energy supply, the IPA should treat these carbon mitigation credit contracts as a "hedge" within ComEd's energy supply portfolio. Rather than procuring up to 100% or 106% of ComEd's forecast eligible retail customer load, ComEd

[8] 220 ILCS 5/16-111.5(d)(4).
[9] Final Carbon Mitigation Credit Procurement Plan dated December 13, 2021, at 12.

believes the IPA should "limit the amount of energy procured under fixed-price contracts to 40-50% of the projected load," leaving the remainder to be procured primarily in day-ahead markets.

The IPA appreciates ComEd's position and the thoughtful analysis provided in its comments. After review of ComEd's comments and consultation with the IPA's Procurement Planning Consultant, the Agency agrees with ComEd that *some* change in its hedging level is warranted by the offsetting effects of CMC contracts. However, the Agency also believes those changes should not go so far as leaving half (or more) of eligible retail customer load unhedged.

There are multiple reasons for taking a more conservative approach. First, the operation of the CMC as a credit to customers is itself subject to uncertainty, due in part to the possibility of contract default or non-performance. Should negative CMCs fail to be delivered as credits to customers, then the offsetting effect of CMC contracts disappears. This would leave any unhedged eligible retail customer load subject to price volatility. Additionally, should significant amounts of competitive supply service migrate to default supply, the IPA could be meaningfully underhedged for additional load *not* offset by CMC contracts. Given that uncertainty, the IPA believes it is more prudent to *hedge against the hedge* by ensuring that a meaningful portion of forward supply is procured for that load nominally covered by CMC price offsets.

Second, the IPA's charge is not merely to ensure the lowest price possible for eligible retail customers; it is instead to propose a procurement approach that produces "the lowest total cost over time, taking into account any benefits of price stability."[10] This involves balancing *both* price and stability and seeking a happy medium between the two.[11] Leaving significant levels of load unhedged would result in volatile month-over-month rates for eligible retail customers due to

[10] 20 ILCS 3855/1-5(13)(A); 220 ILCS 5/16-111.5(d)(4).
[11] See generally Docket No. 14-0588 (rejecting certain parties' fixed price full requirements proposal for energy procurement as it placed too much emphasis on stability versus cost).

different timelines for the Purchased Electricity Adjustment and the CMC fees or credits. Each month, customers would be billed based on the forecast energy supply costs, with the Purchased Electricity Adjustment providing a *monthly* true-up based on the previous months actual energy supply costs. Carbon mitigation credits would eventually provide an offset to those costs, but ComEd's tariffs call for two flat crediting levels to be used for each delivery year (one in summer months, one in non-summer months) – meaning that should energy prices rise well above expectations, the full offsetting effect of CMCs would not reduce bills until after a reconciliation proceeding in the *next delivery year*.[12] While customers charged unexpectedly high rates reflecting high wholesale market energy prices in Year 1 would see those prices offset by bill crediting in Year 2, the IPA does not believe that this *year over year* netting of energy costs is consistent with "price stability" principles.

Third, even if the lowest-price possible outcome was the IPA's sole objective, there is no guarantee that leaving load unhedged will provide that result. Unhedged load will cost customers *more* in times when day-ahead prices are higher than the prices paid through forward procurements. This can be expected to occur a substantial portion of the time. In comments, ComEd cites the Summer of 2022 as an example where customers would have saved through leaving load unhedged. Forward prices rose to unexpectedly high levels in the months preceding the 2022 summer, but then settled down during the summer itself. If weather in Chicago had resembled that of Western Europe during this past summer, had the conflict in Ukraine broadened, or had PJM been hit with an unexpected plant or transmission line outage, day-ahead prices might

[12] While ComEd could theoretically change its crediting approach to reflect PEA balancing, a) it has not done so, b) its comments provide no indication of an intention to do so, and c) doing so would be a fraught alternative, as it would then introduce substantial volatility for competitive supply customers (who may be on flat energy supply rates but would then be subject to new month-over-month CMC price volatility).

have sharply increased and those forward contracts would have looked like a prudent cost-saving hedge.

The IPA cannot predict these and other events, and freely acknowledges that some risk premium is generally paid through securing supply via forward contracts in advance. But that risk premium buys *more stable rates*, in line with the PUA's edict for a procurement approach resulting in "the lowest total cost over time, taking into account any benefits of price stability."[13] Leaving half (or more) of ComEd eligible retail customer load unhedged and subject to this potential volatility is inconsistent with this charge. Even if unexpectedly high prices will be made up the next year through CMC crediting, that eventual rebalancing may be of little solace to a fixed income resident reliant on more stable and predictable rates.

The IPA believes that its duty warrants a more balanced approach. The 2023 Plan proposes a 75% hedging level for ComEd eligible retail customer supply in an effort to balance the benefits of month-over-month stability—while also guarding against the risks of CMC default or non-delivery—with the cost-offsetting benefits of CMC contracts. As the IPA believes that this balanced, prudent approach best balances low costs with stable prices, it seeks approval of this hedging strategy adjustment through this Plan.

II. Modifications to the Agency's Strategy for Capacity Procurements in the Ameren Service Territory

The IPA proposes to change the capacity procurements for Ameren Illinois from a procurement of *annual* Zonal Resource Credits to *seasonal* Zonal Resource Credits ("ZRCs") in order to comply with the recently-approved changes to the MISO capacity market construct. The FERC decision modifying MISO tariffs to establish a seasonal capacity market construct was

[13] 220 ILCS 5/16-111.5(d)(4).

issued on August 31, 2022, subsequent to the publication of the Agency's Draft Plan. Therefore, modifications to the 2023 Plan were required to ensure that the IPA is able to procure the seasonal ZRCs that will be offered in the MISO service territory beginning in the 2023-2024 Delivery Year. FERC's order effectively eliminates the availability of the annual ZRC product and replaces it with a seasonal ZRC product. As explained in Section 7.2.2 of the 2023 Plan, the Agency canceled its scheduled Fall 2022 capacity procurement due to the elimination of the annual ZRC product. As outlined in Chapter 7 of the 2023 Plan, the Agency proposes to hold a capacity procurement early in 2023 in order to replace the capacity for the 2023-2024 delivery year which was to be procured in the Fall 2022 event. The capacity target for the Early 2023 procurement will be based upon an updated capacity forecast and procurement targets that Ameren Illinois will submit to the Agency no later than January 6, 2023.

Additionally, in reflection of the implementation of a seasonal resource adequacy construct in the MISO territory, the Agency plans to procure seasonal ZRCs for each of the four distinct seasons – summer, fall, winter and spring – for the 2023-2024, 2024-2025, and 2025-2026 Delivery Years. The IPA plans to conduct bilateral procurements for each of the four seasons in accordance with the FERC-approved MISO tariff changes. The bilateral procurements of seasonal ZRCs for all four seasons will be conducted simultaneously, and, consistent with the Agency's laddered hedging approach, will be conducted over multiple procurement events in the two years leading up to a given Delivery Year.

Finally, the IPA also plans to change the strategy as to the amount of capacity hedged for Ameren Illinois in the 2024-2025 and 2025-2026 Delivery Years from 50% up to 75%, as explained in detail in Section 7.2 of the 2023 Plan. This strategy will mostly hedge MISO Zone 4 eligible retail customers in the event of a price shock in the MISO Planning Resource Auction

("PRA")while also allowing those same customers to benefit if the MISO PRA clears at a price that is lower than the price of the IPA's bilateral procurements. The proposed hedge of up to 75% of the capacity needs in the Ameren territory received support in comments from Constellation for these same reasons.

III. Comments Not Adopted by the IPA

In comments submitted on the Draft Plan, Ameren Illinois proposed that the Agency increase the hedging percentage targets for the non-summer months in the 2024-2025 and 2025-2026 block energy procurements conducted in calendar year 2023. After reviewing Ameren Illinois' recommended increases to the target hedging percentages, the IPA declined to adopt this proposal for a number of reasons. First, the recommendation of Ameren Illinois was not supported by any analysis. Second, the Agency believes that the proposal, which would introduce an inconsistent treatment in the hedging strategy for summer and non-summer months, would increase the risk of being long (over-hedged) on electricity supply should the July 2023 load forecast reflect a significant amount of load migration to competitive supply. As a result, the IPA determined that the targets outlined in the Draft Plan are sufficient to mitigate the price risks for the Ameren Illinois eligible retail customer load portfolio.

ComEd provided comments on the Draft Plan recommending that the Agency explore an approach designed to align the Agency's electricity procurement plans with the State's clean energy goals. Currently, the Agency addresses the State's clean energy goals directly through the procurement of renewable energy credits under its Long-Term Renewable Resources Procurement Plan, zero emissions credits under its Zero Emissions Standard Plan, and carbon mitigation credits under its Carbon Mitigation Credit Plan. ComEd proposes that in its 2023 Electricity Procurement Plan, the IPA should take into consideration the fuel mix associated with the bids received in its block energy procurements and adjust the bids from carbon-emitting resources to reflect the cost of carbon. The Agency recognizes that this is an intriguing concept; however, the comments of ComEd offer only briefly-described ideas about what "could" be done without offering a discrete proposal. The implementation of this suggestion would be significantly complex; thus, the Agency is unable to develop a solution within the two weeks provided under statute prior to the filing of this Plan. For example, the proposal may potentially conflict with the statutory requirements for selecting energy bids based solely on price, and it may be difficult to assess the fuel mix associated with energy procurement bids as well as the valuation of the cost of carbon. The Agency looks forward to additional discussion on this proposal and whether it could be implemented in future iterations of this Plan.

IV. Other Potential Issues

In the summer of 2022, the Agency solicited stakeholder feedback on various items in preparation for the development of the Draft Plan. The Agency received comments through that process that suggested that the IPA could theoretically procure high-voltage direct current ("HVDC") wholesale products beginning in mid-2027. As modified by Public Act 102-0662, the PUA requires the IPA to consider a mix and selection of energy or capacity products for procurement, "including but not limited to high voltage direct current converter stations."[14] The stakeholder feedback received by the Agency suggested that such a product would be available only through longer-term procurements, and recommended that the IPA consider a long-term procurement via HVDC transmission lines with a converter station located in the Illinois footprint of the PJM service territory. This is not consistent with the Agency's current approach to electricity procurements, and was not incorporated into the Draft Plan. While no party offered

[14] 220 ILCS 16-111.5(b)(3)(iv).

comments on the Draft Plan recommending changes to the IPA's procurement strategy as it relates to wholesale products available from advanced HVDC technologies, the Agency nonetheless wishes to highlight that the procurement of such products is newly permissible under P.A. 102-0662, may be commercially available in 2027, and may potentially be raised by an intervening party or parties to this proceeding.

Similarly, the IPA received feedback through the same stakeholder process conducted in the summer of 2022 (i.e., prior to the publication of the Draft Plan), suggesting that the IPA should consider implementing a hedging strategy that mixes the current three-year laddered approach with a long-term hedge of 15-20 years of capacity and energy (as well as other wholesale products) in order to provide price stability. The IPA declined to adjust the hedging strategy in this manner in development of the Draft Plan, and further did not receive comments on the Draft Plan that recommended that the Agency take a longer-term power purchase approach to its procurement strategy. Nonetheless, the IPA notes that an intervening party or parties may raise this issue in the course of the Commission's review and approval of the 2023 Plan.

PROCEDURAL STEPS

As discussed above, any person objecting to the Plan must file an objection with the Commission within five days of the filing of the Plan, on or before Monday, October 3, 2022.[15] As with past years, parties may file objections based on alternative policy recommendations or legal arguments, and the Commission may take those written objections into consideration in approving or modifying the Plan in accordance with its authority under Section 16-111.5 of the PUA. In addition, the Commission has ten days from the filing of objections to determine if a

[15] 220 ILCS 5/16-111.5(d)(3).

hearing is necessary.[16] At this time, the IPA does not believe a hearing is necessary to consider or approve the 2023 Plan.

PROPOSED BRIEFING SCHEDULE

In prior years, the presiding Administrative Law Judge has instituted a briefing schedule by issuing a Notice to all parties approximately one week after the commencement of the docket. For consideration of the 2023 Plan, the IPA proposes the following briefing schedule:

- Responses to objections must be filed and served by Monday, October 17, 2022;
- Replies to Responses shall be filed and served by Wednesday, October 26, 2022;
- The expected date for the ALJ's Proposed Order is Monday, November 14, 2022;
- Briefs on Exceptions must be filed and served by Monday, November 21, 2022; and
- Reply Briefs on Exception must be filed and served by Thursday, December 1, 2022.

This proposed schedule largely mirrors the schedules utilized for prior annual IPA procurement plan approval proceedings, including most recently Docket No. 21-0717, approving the 2022 IPA Electricity Procurement Plan. This proposed schedule allows the Commission sufficient time to review the matter prior to its December 15, 2022 Regular Open Meeting, which is the Commission's last scheduled meeting prior to the statutory deadline for approval of the 2023 Plan on December 27, 2022.

CONCLUSION

The Illinois Power Agency's 2023 Annual Electricity Procurement Plan is consistent with the requirements of the Public Utilities Act and the Illinois Power Agency Act, meets the needs of

[16] In the past, the Commission has interpreted Section 16-111.5(d)(3) as requiring a Commission determination by 10 days after Objections are due (see, e.g., Docket No. 12-0544, Notice of Administrative Law Judge Ruling dated October 10, 2012, wherein the determination came 12 days after the filing of the annual procurement plan and 7 days after objections were due); if the Commission determines that this is the appropriate deadline, it must rule on a hearing by Thursday, October 13, 2022.

the customers it serves, and should be approved by the Commission. The IPA reserves the right to file responsive comments and any corresponding edits to its 2023 Plan, and respectfully requests the Plan's approval in this proceeding.

Dated: September 28, 2022

Respectfully submitted,

Illinois Power Agency

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STATE OF ILLINOIS)
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COUNTY OF COOK)

VERIFICATION

Pursuant to 83 Ill. Admin. Code 200.130 and 735 ILCS 5/1-109, under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Verified Petition for Approval of the Illinois Power Agency's 2023 Electricity Procurement Plan are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

Anthony M. Star
Director, Illinois Power Agency

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NOTICE OF FILING

Please take notice that on September 28, 2022, the undersigned, an attorney, caused the Illinois Power Agency's Verified Petition for Approval of the 2023 Electricity Procurement Plan Pursuant to 220 ILCS 5/16-111.5(d)(4), the 2023 Plan itself, and the Appendices thereto to be filed via e-Docket with the Chief Clerk of the Illinois Commerce Commission in a new proceeding.

Kelly A. Turner

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