

NRDC/OAG Responses to ICC Follow Up Questions on IPA Efficiency Procurement

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?

Response:

The energy efficiency procurement provisions of Section 16-111.5B of the Public Utilities Act (“the Act”) specifically contemplate the Utilities’ including expansions of Section 8-103 programs as a part of the annual energy efficiency procurement presentation provided to the IPA. Section 16-111.5B(a) states, for example:

“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.”

220 ILCS 5/16-111.5B(a)(2) (emphasis added). Section 16-111.5B(a)(3)(C) also specifically references the inclusion of expanded Section 8-103 efficiency programs as a part of the efficiency potential assessment provided to the IPA:

*“...each Illinois utility...shall annually provide to the Illinois Power Agency...an assessment of cost-effective energy efficiency programs or measures that could be included in the procurement plan. The assessment shall include...(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...”*

220 ILCS 5/16-111.5B(a)(3)(C) (emphasis added).

Both the NRDC and the Office of the Attorney General (“OAG”) believe inclusion of additional savings from Section 8-103 programs is necessary to achieve the objective of Section 16-111.5B to capture all cost-effective efficiency potential not being acquired from residential and small business customers through Section 8-103 programs. Because the utilities’ Section 8-103 program portfolios

are both budget-constrained and designed to offer a range of energy saving opportunities to all customers, few if any of their Section 8-103 programs are intended to capture all of the cost-effective efficiency potential from the markets that they target. Consider, for example, a utility that needs to spend an average of \$0.20 per first year kWh saved to meet an overall portfolio savings target within its budget constraint. If one of the programs offered by that utility could cost-effectively generate 50,000 MWh in first year savings at a utility cost of \$0.20 per first year kWh saved (\$10 million total) or 100,000 MWh in first year savings at a utility cost of \$0.35 per first year kWh saved (\$35 million total), it is likely to propose to acquire only the first 50,000 MWh in its Section 8-103 portfolio, even if the full 100,000 MWh of annual savings was cost-effective. This is because the utility is likely to be able to identify additional savings it can acquire from other programs at a lower incremental cost than the additional savings from this program can provide. Put another way, the budget constraint that the Section 8-103(d) cost cap imposes leads to some “cream-skimming” by the utilities, forcing them to try to acquire the cheapest savings while leaving other cost-effective savings -- i.e., savings that are still less expensive than electric supply, and often much less expensive on a life-cycle cost basis -- “on the table.” It is those other savings that we believe Section 16-111.5B was intended to acquire.

With respect to the feasibility of expanding Section 8-103 programs, the utilities have already demonstrated that such expansions are possible. In 2012, both Ameren and Com Ed identified a number of different 8-103 program expansions that would generate additional cost-effective savings, were included by the IPA in its proposed procurement plan and were approved by the ICC.

The methodology for pursuing program expansions is quite simple. First, the utilities must assess the extent to which their Section 8-103 programs could be expanded to generate additional cost-effective savings. Second, they must estimate the additional financial/budgetary resources that would be needed to acquire those additional savings. In the example provided above, the utility would indicate to the IPA that it could acquire an additional 50,000 MWh in first year savings at an additional cost of \$25 million.¹ Finally, it must assess whether the additional savings are cost-effective under the TRC test which is the yardstick Section 16-111.5B requires be used to determine whether the IPA should procure the savings. Expansions of existing programs that are already shown to be TRC cost-effective will almost always be TRC cost-effective themselves because they usually enable fixed program administrative costs to be spread over a larger volume of energy savings.

That said, it is important to acknowledge that there is currently a timing problem with the need to consider expansions of the Section 8-103 programs that will be implemented in Program Year (“PY”) 7, which runs June 2014 to May 2015, in the IPA procurement of savings for the same year. Specifically, the utilities must submit to the IPA by July 2013 their assessment of the additional savings the IPA could cost-effectively acquire, even though they will not yet have filed, let alone

¹ Note that throughout this example we refer to cost per first year kWh saved because that is the way the utilities’ Section 8-103 savings targets are conveyed. Needless to say, when assessing the cost-effectiveness of efficiency programs, one must consider the life of the savings as well as how much is produced each year. In this example, the levelized life-cycle utility cost per kWh of the additional 50,000 MWh savings would be about \$0.04 cents/kWh if the savings had a 20-year life and one assumed a 5% real discount rate. However, even that calculation is not the most important. Both section 8-103 and 16.111.5B efficiency investments are required to be screened using the TRC test. That test looks at the societal cost and considers not only the benefits of reduced energy consumption but also the benefits of avoided peak capacity, avoided transmission and distribution system investments, avoided marginal line losses, avoided carbon emissions and other benefits.

received ICC approval of, their next proposed, three-year Section 8-103 plan (covering PY7 through PY9). The IPA is also expected to file its procurement plan in September with ICC approval expected before the end of the year, also likely before any ICC decision on the utilities' Section 8-103 plans. In other words, it would be difficult for the utilities to definitely identify expansions of Section 8-103 programs for PY7 that the IPA could procure when they do not know for certain what the Section 8-103 programs would be or how deeply into the market each of them would go (i.e. how much savings each would acquire).

Unless filing schedules are changed, this problem will likely exist every three years during the years in which the utilities are filing new Section 8-103 portfolios. However, there should not be an issue with exploring expansions of existing Section 8-103 programs in the other two years. To address that problem in the future (it is probably too late to do so for the Section 8-103 plans the utilities are planning to file this year), NRDC and the OAG recommend that the Commission present recommendations to the General Assembly that would modify the statutory filing timelines included in Sections 8-103, 16-111.5 and 16-111.5B of the Act to better align the schedule of the required Section 8-103 and IPA procurement filings. Moreover, NRDC and the OAG recommend that the ICC require that the next utility 8-103 portfolios (i.e. those covering PY10 through PY12 to be filed in 2016) comprehensively address all cost-effective efficiency potential in the residential and small commercial markets. Assuming filing deadlines could be coordinated, NRDC and the OAG recommend, beginning in 2016, that the Section 8-103 filings and IPA procurement filings be merged, with a portion of the budget needed to capture all the cost-effective residential and small commercial savings coming from Section 8-103 requirements and the balance from IPA. As suggested below, this would create a single combined savings target. There could then be "supplemental" IPA filings made during each of the intervening "off years" to add additional savings opportunities identified after the larger 3-year joint filings are made.

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.

Response:

Yes. The intent of 16.111.5B is to capture all cost-effective, residential and small non-residential electric efficiency resources not being captured by Section 8-103 programs. Further, as noted in the response to the first question above, Section 16.111.5B explicitly contemplates expansion of Section 8-103 programs where such expansions can provide additional cost-effective savings. DCEO's programs target, in part, both residential and some small non-residential customers. They are also part of the Section 8-103 portfolios. As long as the potential DCEO-sector efficiency programs or measures represent programs that are "offered to all retail customers whose electric service has not been declared competitive under Section 16-113 of (the) 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," they should be included in the assessment delivered to the IPA. 220 ILCS 5/16-111.5B(a)(3)(C). The full extent of the benefits and costs cannot be known until an analysis of the opportunities is conducted. However, because any expansion is required to be cost-effective, the benefits will – by definition – outweigh the costs.

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.

Response:

The programs should be managed as a single portfolio to the greatest extent possible to enable the most efficient and effective administration. The portfolio would necessarily include (1) purely Section 8-103 programs; (2) expanded Section 8-103 programs that are funded in part through Section 8-103 funds and in part through the IPA procurement and (3) new programs that were identified through the competitive solicitation and are funded entirely through the IPA procurement process. NRDC and the OAG recommend that the ICC give the utilities two options for such integrated management. Each utility would be able to choose the option it prefers.

Option A

The first option – which NRDC considers to be the best option – would be to create a combined energy savings goal for each utility, including the savings that could be acquired through both the Section 8-103 budget and whatever additional funds are made available through the Section 16-111.5B expansions and programs. In a way, this would be analogous to treating the funds for IPA procurement as an additional source of funding that is not covered by the Section 8-103 spending caps, just as, for example, Com Ed’s revenue from selling peak demand savings into the PJM capacity market is treated as an exogenous source of revenue that can be reinvested in additional efficiency savings. This treatment would enable the utilities to better achieve statutory savings targets without going over the statutory spending cap. However, this approach of combining savings into a single savings target would only be appropriate if the utilities are held accountable for meeting the *aggregate* savings target in the same way they are held accountable for meeting the Section 8-103 target. If they are held accountable only for meeting the Section 8-103 target, then they have no incentive to really meet the aggregate target and the IPA funds simply become a means of reducing – if not totally eliminating – the risk of not meeting the lower Section 8-103 targets. Under this option, the rules for the merged portfolio would be as follows:

- **Evaluation:** The evaluation of IPA efficiency programs should be conducted in the same manner as for Section 8-103 programs today, though it would likely be appropriate to revisit the question as to whether every program should be evaluated at least once every three

years. For example, the benefits of evaluation of very small programs, which seem potentially quite common under the IPA procurement, may not outweigh the costs.

- **Tracking and Reporting:** The tracking and reporting of IPA programs should be fully integrated with the tracking and reporting of Section 8-103 programs.
- **Portfolio Administration:** Administration of the portfolios should be fully integrated.
- **Goals and Savings Allocations:** All savings would be applied to the same single savings goal. There would be no need to allocate them to each source of funding.
- **Banking:** There would be one set of banking rules that would apply to the entire portfolio.
- **Flexibility:** Flexibility would be available to move budget dollars among programs when justified and modify where savings are acquired (relative to plans) within the entire program portfolio, provided that every effort still is made to acquire all cost-effective savings from residential and small business customers, and that all of the funds coming from the IPA are spent on programs targeting such customers.

Notwithstanding these views, NRDC/OAG acknowledge that there are no specific provisions in Section 16-111.5B that designate specific savings goals or penalties for failure to achieve forecasted energy savings, unlike Section 8-103 provisions. However, ensuring accountability for forecasted energy savings pursuant to Section 16-111.5B is essential to achievement of cost-effective energy efficiency and overall reduced energy usage.

NRDC/OAG suggest that discussion as to how such accountability can be attained should continue through the SAG process.

Option B

The second option would essentially have two different savings targets – one for Section 8-103 programs and another for the Section 16-111.5B programs and program expansions. Under this option, the utilities would have the same accountability that they currently have for meeting Section 8-103 targets, but they would not face any penalties for not achieving the savings forecasted for the IPA procurement. Under that paradigm, we suggest the following:

- **Evaluation:** The evaluation of IPA programs should be conducted in the same manner as for Section 8-103 programs today, though as discussed below in response to Question 5, not all IPA programs should necessarily be evaluated. Expanded programs would receive one evaluation.
- **Tracking and Reporting:** The tracking and reporting of IPA and Section 8-103 programs should be fully integrated.
- **Portfolio Administration:** The administration of IPA and Section 8-103 programs should be fully integrated.
- **Goals and Savings Allocations:** A hybrid approach to calculating goals and savings is necessary under this option. Savings from expanded Section 8-103 programs should be allocated in proportion to the planned savings from the “base” Section 8-103 program and the IPA expansion. For example, if a program was forecast to achieve 100,000 MWh under Section 8-103 and forecast to achieve an additional 50,000 MWh as a result of an additional investment through the IPA, then two-thirds of all of the savings actually achieved would be allocated to the Section 8-103 portfolio and one-third to the IPA. For programs that are unique to either the Section 8-103 portfolio or the IPA portfolio, savings would count solely towards the respective savings goals for each segment.

- **Banking:** Banking rules for IPA procurement would be the same as for Section 8-103 programs, but only for the duration of contracts put in place. In other words, there would be no banking for programs accepted for one year of implementation. Banking would be permitted for programs accepted for 2 or 3 years.
- **Flexibility:** Flexibility would be available to move budget dollars among programs when justified and modify where savings are acquired (relative to plans) within the Section 8-103 program portfolio and within the IPA program portfolio, but not between Section 8-103 and IPA portfolios.

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?

Response:

IPA procurement should allow for multi-year programs. Not allowing multi-year procurement would reduce the amount of cost-effective savings that could be achieved – clearly counter to the intent of 16.111.5B – because some programs take two or more years to become cost-effective. Multi-year programs are necessary to achieve the maximum energy efficiency potential both because some measures require up-front infrastructure investment that require a couple of years of program participation and related savings to “pay for” these investments, and because the prospect of a multi-year contract will likely entice more prospective program implementers to make proposals. As noted in the response to question 1 above, any multi-year program bids should be aligned with the Section 8-103 planning periods.

NRDC and the OAG disagree with Ameren that multi-year programs are only possible if gross savings and Net-to-Gross (“NTG”) assumptions are deemed for three years. In Section 8-103 filings, utilities are planning to run programs for three years without such levels of certainty. There is no reason that cannot hold for IPA programs as well. The key is that there should be flexibility – as there is for the Section 8-103 portfolios – to address shortfalls in out years that result from changes in assumptions (or even simply under-performance) by acquiring offsetting savings from other initiatives. Such initiatives would include expansions of other multi-year IPA programs that are performing better than originally anticipated or initiation of new IPA programs. The need for and source of such offsets could be identified in subsequent IPA annual filings with the ICC.

It should be noted that there is no need (or legal requirement) for IPA program payments to be performance-based. The utilities should have the flexibility to structure payment terms with third-party vendors in the 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.

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?

Response:

The question seems to blur the difference between how savings should be “counted” relative to savings goals and how they should be “evaluated.”

With respect to how savings are to be counted, NRDC and the OAG would support deeming unit savings values and NTG ratios for one year of program implementation, based on the TRM values in effect and NTG values assumed at the time that the IPA plan is approved by the ICC. While such values might occasionally be different than those assumed by the bidding contractors several months earlier, any change in savings would be reflected in modified program goals (so there would be no risk), would have to have been shown to still be cost-effective and would have been effectively accepted by the ICC. For multi-year bids, savings values in subsequent years would be subject to revision based on new information available before a year begins, but then locked in for that year. This approach would strike an appropriate balance between providing some certainty to prospective bidders of new or expanded programs (encouraging more to consider submitting bids and therefore increasing the volume of cost-effective savings acquired) while ensuring that shortfalls resulting from lowered savings assumptions can be offset in future years or that extra savings resulting from increased savings assumptions can be factored into IPA planning in future years.

The language of 16-111.5B does not require evaluation of all savings. Indeed, such evaluation would not always be prudent, particularly for smaller new programs (i.e. the cost of evaluation cannot always be justified by the increase in accuracy in savings estimation). Determinations of whether, when and what evaluation would be appropriate should be made on a case-by-case basis (i.e. particularly for larger programs). Expanded Section 8-103 programs would need to be evaluated using Section 8-103 rules to assess achievement of Section 8-103 savings targets, as well as any savings credited to the IPA portion of the expanded programs.

The default assumption should be that TRM and other savings assumptions and methodologies should be applied to both Section 8-103 and 16-111.5B programs. However, there may be reasons for assumptions and/or methodologies to differ. Both different target markets for certain measures and different delivery approaches can affect savings achieved per measure. Also, different incentive levels can have a significant impact on NTG rates. In general, we agree with Com Ed's suggestion that programs intended to capture all cost-effective efficiency potential through the IPA procurement process are likely to have lower levels of free ridership than programs funded through Section 8-103.

A hypothetical example might help make clear what we are proposing. Consider a new IPA program with the following characteristics at the time that the third-party vendor submitted its program proposal in the Spring of 2013:

- Proposes to install measure "X" in 1000 different homes (i.e. one measure per home, so 1000 measures installed total);
- The assumed savings per measure is 1000 kWh/year, per the current TRM;
- The assumed NTG is 1.0;
- The TRC benefit-cost ratio for the program is 1.60

If during the ICC's consideration of the IPA's proposal to fund this program it is determined that the best NTG assumption for the program is 0.75 (rather than 1.0), so that the program benefit-cost ratio drops to 1.50,² the program would still be approved in late 2013. Further, it would use the deemed 1000 kWh/unit savings assumption and the deemed 0.75 NTG assumption for estimating savings for at least all of the first program year (i.e. PY7, running from June 2014 through May 2015).

If the program is evaluated and results become available in the early Spring of 2016 (i.e. well into the second year – PY8), then the deemed assumptions of 1000 kWh/unit and an NTG of 0.75 would continue to be used to estimate PY8 savings. However, the evaluation results would be used to update assumptions for PY9 (i.e. starting in June 2016). For example, if the evaluation suggested that the actual saving per unit were only 500 kWh rather than the 1000 previously assumed, the utility would be required to use that value (which would presumably have found its way into a revised TRM as well) for PY9. In this case, the lower per unit savings would render the program no longer cost-effective (with a benefit-cost ratio of 0.75). As suggested in response to Question 7, the program should therefore be terminated at the end of PY8. If on the other hand, the evaluation suggested that savings per unit were 800 kWh, so that the program still had a benefit cost ratio of 1.2, the program would continue to be implemented in PY9 but have to use the updated per unit savings assumption of 800 kWh when savings for the program in that year are estimated.

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 requirements?

² Note that the benefit-cost ratio of a program does not decline in proportion to a change in NTG. This is because a change in NTG will lower both TRC benefits and TRC costs (the portion of program costs that are measure costs).

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?

Response:

Accountability for the achievement of annual energy efficiency savings goals is always necessary. The key question is: what form should the accountability take? As discussed above in response to question 3, NRDC and the OAG prefer that the Section 8-103 and IPA programs be planned and implemented in an integrated way (i.e. as if the IPA is simply another source of external funds available to support the attainment of statutory goals) with a single savings target and essentially a combined budget (with some limitations discussed above). If that proposal is adopted, there would be no purely “IPA savings”. In that context, the utilities would have the same accountability for meeting a single “combined” savings goal that they have today for meeting Section 8-103 goals. The utilities would then have the flexibility to decide themselves whether and how to hold vendors accountable.

As suggested in response to question 5, NRDC and the OAG support using ex-post evaluation results only prospectively, to adjust TRM values and forecast savings from programs implemented in the future. The only exception to this rule would be for purely custom savings calculations, where – by definition – there were no up-front savings assumptions used. In those cases, ex post evaluation results should be applied retrospectively. However, we expect such retrospective application to be very rare as custom savings calculations are rarely planned and used when addressing savings opportunities in residential and small business market segments.

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?

Response:

Such adjustments would only be applicable to multi-year programs under the NRDC and OAG proposal to deem values for one year of implementation. (See response to Question 5.) For such programs, adjustments would need to be made before the next program year begins. The process would be the same as the current proposed process for updating and applying new values in the TRM – i.e. agreed by consensus of the SAG or, if no consensus is reached, using the old TRM assumptions until an ICC decision to change the TRM has been issued in a docketed proceeding, with an appropriate “grace period” provided. Changes to NTG assumptions should also be made through consensus of the SAG, if possible, before the program year begins. Where consensus is not reached, the old assumption should continue to be used until an ICC decision to change it has been issued in a docketed proceeding, with an appropriate grace period provided.

If assumptions for multi-year programs are changed, then the utilities should adjust program portfolios as needed to offset any shortfalls and ensure that they meet their goals. If such adjustments are substantial enough to potentially render a program not cost-effective, then the utility should conduct a new cost-effectiveness assessment. If that assessment suggests a program is no longer cost-effective, its implementation should be terminated.

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?

Response:

The utilities should be provided the greatest flexibility possible to manage the efficiency program portfolios (whether a single combined portfolio as we suggest is ideal in response to question 3, or two separate but partially integrated portfolios) as effectively and efficiently as possible. One key element of this objective would be to maximize cost-effective energy savings.

To that end, NRDC and the OAG agree with Com Ed that the utility should have the flexibility to shift resources between and among IPA programs, subject to any contractual constraints with 3rd party vendors. NRDC and the OAG also agree with Com Ed that the statute’s objective of capturing all cost-effective efficiency potential suggests it would be appropriate to allow the utilities to increase funding for IPA programs (and/or program expansions) that could cost-effectively exceed their savings targets (i.e., are “over-achieving”). However, details as to the level of increased funding and how it would be recovered from ratepayers would need to be analyzed and approved by the Commission.

Utilities should also have the flexibility to move budget and savings between Section 8-103 and IPA programs, but only if they elect to adopt a single, combined savings target – with Section 8-103 accountability for not meeting that target. (See discussion of “Option A” in the NRDC/OAG response to Question 3.) Even then, such flexibility would be contingent on the utility both seeking to acquire all cost-effective savings from residential and small business customers and spending all of the IPA funds on such customers.

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?

Response:

Section 16-111.5B(b) states:

For purposes of this Section . . . the term "cost-effective" shall have the meaning set forth in subsection (a) of Section 8-103 of this Act.

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

Section 8-103(a) states:

As used in this Section, "cost-effective" means that the measures satisfy the total resource cost test.

220 ILCS 5/8-103(a). Therefore, with regard to the IPA’s procurement, the term “cost-effective” means that the programs and measures pass the total resources cost (“TRC”) test. According to the statute, this is *the only* requirement that programs and measures must satisfy for the IPA to include them in the procurement plan.

Section 16-111.5B(a)(4) states:

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).

220 ILCS 5/15-111.5B(a)(4) (Emphasis added.) Section 16-111.5B(a)(4) makes clear the IPA *is required* to include in the procurement plan the programs and measures that are “cost-effective,” meaning that they pass the total resources cost test. The use of the phrase “shall include” means that the IPA is disallowed from using additional screening processes outside of the TRC test, to prevent programs and measures from being included in the procurement plan.

This restriction on additional screening processes also applies to the Commission in approving IPA's proposals. Section 16-111.5B(a)(5) states:

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) (Emphasis added.) Section 16-111.5B(a)(5) makes clear that if the Commission determines that the programs and measures are "cost-effective," then it must approve them. The use of the phrase "shall also approve" means that the Commission is statutorily required to approve the programs and measures if they are "cost-effective," meaning they pass the TRC test.

In addition, the Commission's analysis of the additional energy efficiency procurement should find that the portfolio passes the TRC test and "fully captures the potential for all achievable cost-effective savings to the extent practicable." It is conceivable that the ICC could find that the Utilities have fallen short of the "fully captures all achievable savings" requirement if the efficiency portfolio presented in the IPA portfolio does not satisfy the potential identified in the Section 16-111B(a)(3)(A) potential studies. These are the only requirements programs and measures must achieve to be included in the procurement plan and subsequently approved by the Commission.

During the workshop there was discussion as to the level at which the TRC test should be applied. Basically, there was disagreement over the meaning of the term "programs and measures." The definition of "cost-effective" in Section 8-103(a) has been interpreted to mean at the portfolio level, and since Section 16-111.5B(b) refers to Section 8-103(a), the same interpretation applies to IPA programs. Simply put, what is a portfolio other than "programs and measures"? There is no language in Section 16-111.5B that suggests IPA programs are required to pass a more stringent standard than those of Section 8-103(a). During the workshop, Staff seemed to be of the opinion that "programs and measures" meant that the TRC test is applied *to each* program or measure. This is an inaccurate reading of the statute. Tellingly, 16-111.5B(a)(4) does not state that the IPA is required to include in the procurement plan "*each* energy efficiency program and measure" it determines is cost-effective. The use of the plural and combined term, "programs and measures" indicates they are to be considered together when being evaluated under the TRC test.

As an aside, one of the current barriers to participation in the current utility processes for soliciting third-party proposals for new programs is that prospective bidders have no way of testing whether

their program concepts will pass the TRC test. Even if they have a cost-effectiveness screening tool and are using only measures with assumptions already provided in the TRM, they do not know what the utilities' avoided costs are, so they cannot calculate the TRC benefits of their savings. Thus, unless they are only planning to promote measures and/or program concepts that can be expected to be extremely cost-effective (and many of those are already included in the utilities' own programs with which new proposals are not supposed to compete), they are faced with a choice of investing significant effort and cost into a bid that might be rejected because it fails TRC screening. Further, even if they are willing to run that risk and absorb the cost of doing so, they have no opportunity to optimize their bid in the event that it fails screening by a modest margin. This barrier can and should be addressed by the utilities making available to prospective bidders a tool – either on-line or otherwise – that bidders could use to screen and optimize program ideas themselves before they are bid. Any confidential information in the tool, such as utility avoided costs, could be kept from bidders through password protection of a part of the tool or other means.

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.

Response:

Subsection D

With respect to subsection D, the key phrase is “overall cost of electric service.” This can only reasonably be interpreted as suggesting the use of the Program Administrator Cost Test (PACT), sometimes also referred to as the Utility Cost Test (UCT).

It is important to note that the law refers to overall cost. It does not refer to cost per unit or price. Consider the following two options: (1) an electricity customer buys 10,000 kWh per year at a price of \$0.10 per kWh for a total annual electric bill of \$1000; or (2) an electricity customer buys 8000 kWh per year at a price of \$0.11 per kWh for a total annual electric bill of \$880. Which has the lower “overall cost of electric service”? The second customer clearly incurs a lower overall **cost** even if the price it pays for electricity is higher. In its comments, Ameren has suggested that the Ratepayer Impact (RIM) test is the appropriate test for subsection D. However, the RIM test only measures whether electric **rates** will increase or decrease. It does not measure whether total electric costs will increase or decrease. Thus, it cannot be the appropriate test.

There are four different cost-effectiveness tests that are used in the energy efficiency industry to measure overall costs: (1) the participant test; (2) PACT/UCT; (3) the TRC; and (4) the societal test. Each measures “overall costs”, but from different perspectives. The participant test only measures overall costs to the customers who participate in efficiency programs. However, the term “overall cost of electric service” appears to refer to all customers in aggregate, not just program participants. Both the TRC and Societal tests include benefits – e.g. reductions in the use of natural gas or other

fuels – that do not directly affect the cost of electric service. Moreover, both include costs – i.e. the portion of incremental costs of efficiency measures that is not born by the utility program – which do not affect the cost of electric service. Thus, neither of those tests are appropriate either. The PACT/UCT is the only test that focuses on overall costs and measures the value of just electric system benefits and costs in doing so. Put another way, it answers the question: “Will utility bills increase?”³ That is the same thing as asking what the effect on the overall cost of electric service will be.

Subsection E

The language in subsection E is not as clear as one might hope. The NRDC/OAG best interpretation of the language is that it refers to the TRC. Note that unlike subsection D, it is not specifically focused on electric energy. It asks for a comparison of the cost of “energy efficiency measures” (not *electric* efficiency) to the “comparable cost of supply” (not the comparable cost of *electric* supply). While 16-111.5B is clearly intended to acquire cost-effective electric efficiency, many electric efficiency measures also provide natural gas savings, for example. Those benefits would need to be captured in any cost-effectiveness assessment conducted pursuant to Subsection E. The TRC test is the only test that does so.

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?

Response:

The additional information gathered from 220 ILCS 5/16-111.5B(a)(3)(D)-(E) is just information. The statute does not require particular action to be taken based on the information provided through 220 ILCS 5/16-111.5B(a)(3)(D)-(E). In fact, the statute limits the IPA’s review of programs and measures to strictly if they are “cost-effective,” meaning if they pass the TRC test. Therefore, regardless of what test utilities use for 220 ILCS 5/16-111.5B(a)(3)(D)-(E), the results of such tests should not screen out programs and measures that pass the TRC test from being presented to the IPA for inclusion in the procurement plan. Therefore, NRDC and the OAG urge utilities to no longer view 220 ILCS 5/16-111.5B(a)(3)(D) as screening out programs and measures that pass the TRC test. As explained in Question 9, the statute requires IPA to include programs and measures that pass the TRC test, and this is the only requirement.

³ See: Energy and Environmental Economics, Inc. and the Regulatory Assistance Project, “*Understanding Cost-Effectiveness of Energy Efficiency Programs: Best Practices, Technical Methods, and Emerging Issues for Policy-Makers*”, A Resource of the National Action Plan for Energy Efficiency, November 2008, p. 2-2. Ironically, this is the same document cited by Ameren in its argument that the RIM test be used. However, the document clearly states that the key question answered by the RIM test is “Will utility *rates* increase?” (Emphasis added.) Again, “overall cost of electric service” means total cost, not rates (i.e. not price per unit).