

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

ILLINOIS POWER AGENCY :
 : No. 08-0519
Petition for Approval of Procurement Plan :

REPLY BRIEF ON EXCEPTIONS
OF COMMONWEALTH EDISON COMPANY

Commonwealth Edison Company (“ComEd”) submits this Reply Brief on Exceptions in accordance with Section 200.830 of the Rules of Practice of the Illinois Commerce Commission (the “Commission” or “ICC”), 83 Ill. Admin. Code § 200.830, and the schedule established by the Administrative Law Judge (“ALJ”). ComEd replies solely to the Brief on Exceptions filed by the Illinois Attorney General (“AG”) to the Proposed Order (the “Proposed Order”) issued by the ALJ on December 5, 2008. The AG’s proposed revisions should be rejected.

I. Benchmarks for Renewable Energy Resources

The AG argues that the Plan should require benchmarks to be used in connection with the acquisition of renewable energy resources. AG BOE at 1-4. The AG’s main argument rests exclusively on legislation that is yet to be signed by the Governor. Moreover, the Plan already provides that the Procurement Administrator will recommend a method “consistent with all applicable statutes” to incorporate bids for renewable resources. Plan at 54. If the law should at a future date require benchmarking for renewable resources, the Plan authorizes and permits full compliance. There is no reason to introduce an independent requirement in the Plan, especially because – as ComEd and Staff pointed out – such a requirement makes little sense under current law. *See* Staff Obj. at 12-16.

II. Multi-Year Bids for Renewable Energy Resources

The AG also persists in arguing that the Procurement Administrator be permitted to solicit bids for long-term contracts for renewable energy resources in the 2009 procurement event. AG BOE at 4-6. The AG provides no compelling analysis as to why prices would be lower under long-term contracts than they would be using annual procurement.¹ Moreover, long-term contracts have significant risks, and the AG has presented no risk analysis that accounts for the potential stranded cost, credit, margining and other risks associated with such contracts. Given that the market is functioning and that robust wind development is occurring now, there is no need for the Plan to subject customers to the added risks associated with long-term contracts. Furthermore, as noted by Staff, a multi-year REC procurement would raise a number of issues on how best to balance all of the requirements of the IPA Act such as price caps, wind requirements, and geographic requirements.

The AG again points to SB 1987, legislation that is not yet effective. In this case, moreover, the AG misapprehends that legislation. The portions of SB 1987 that amends Section 1-75(c)(1) of the Illinois Power Agency Act (quoted in the AG's BOE) simply imposes no limitation on the term of renewable contracts to be benchmarked. It does not require the benchmarking of – let alone the acquisition of – long-term renewable resource contracts. Therefore, even if it were currently effective, SB 1987 would be no reason to overturn the ALJ's recommendation that long-term contracts not be acquired this cycle and no reason to alter the

¹ Long-term contracts will reflect the market's expectation of future prices. There is no reason to assume that the market underestimates the long-term value of renewable energy or RECs. Nor is including long-term contracts necessary to provide a competitive supply of RECs. There is a boom in wind development nationally and, even without long-term contracts from ComEd, Illinois was one of the top five states for new wind development in 2007. Moreover, in order to affect the 2009 procurement, RECs must be generated and retired in a short time frame very close to the June 2009-May 2010 plan year (based on last year's Commission-approved plan, January 2009 – May 2010). New generation sources that are still looking for financing from a long-term contract would not be available to meet these requirements.

Illinois Power Agency's Plan to acquire long-term resources in the 2009 event only "if a new statute becomes law prior to the procurement of RECs under this plan that provides for benchmarking of long-term contracts for renewable energy supply and/or RECs" Plan at 41.

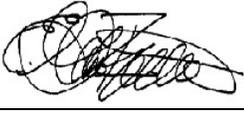
III. Conclusion

For the reasons stated herein, ComEd respectfully requests that the Commission reject the exceptions to the Proposed Order filed by the Illinois Attorney General.

Dated: December 10, 2008

Respectfully submitted,

COMMONWEALTH EDISON COMPANY

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CERTIFICATE OF SERVICE

I, E. Glenn Rippie, do hereby certify that a copy of the foregoing REPLY BRIEF ON EXCEPTIONS OF COMMONWEALTH EDISON COMPANY was served upon all parties on the attached Service List by the method so indicated this 10th day of December, 2008.



E. Glenn Rippie