

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

ILLINOIS POWER AGENCY :
 :
Petition for approval of : No. 09-0373
Procurement Plan :

**COMMONWEALTH EDISON COMPANY’S
RESPONSE TO THE OBJECTIONS TO THE PROCUREMENT PLAN
OF THE ILLINOIS POWER AGENCY SUBMITTED BY THE STAFF OF THE
ILLINOIS COMMERCE COMMISSION, THE AMEREN ILLINOIS UTILITIES
AND CONSTELLATION ENERGY COMMODITIES GROUP**

Commonwealth Edison Company (“ComEd”) submits its response (“Response”), pursuant to the Notice issued by the Administrative Law Judge on October 7, 2009 and pursuant to Section 16-111.5(d)(3) of the Illinois Public Utilities Act (“PUA”), (220 ILCS 5/16-111.5(d)(3)), to the objections (“Objections”) submitted by the Staff (“Staff”) of the Illinois Commerce Commission (“ICC”), the Ameren Illinois Utilities (“Ameren”) and to Constellation Energy Commodities Group, Inc. et al (“Constellation”) to the Procurement Plan (“Plan”) filed with the ICC by the Illinois Power Agency (“IPA”). In particular, ComEd responds to the objections raised by those parties to the IPA’s proposal to procure long-term wind energy in the upcoming procurement event. ComEd also objects to the proposal of Constellation to allow Green-E to track RECs.

I. The Objections to the IPA’s Long-Term Renewable Proposal are Valid, but Can be Remedied

Staff, Ameren and ExGen raised many similar objections to the proposal to procure long-term renewables. The Staff objected to the proposal because it lacked justification, lacked details and failed to address many important issues.¹ Ameren, while not objecting to the concept of a

¹ Staff Objections, pp. 10-18.

long-term wind energy procurement, noted that the Plan lacked any discussion of the details that were critical to the success of such a procurement. Ameren went on to express its position on many of these issues.²

In particular, both Staff³ and Ameren⁴ raised the objection that it did not appear that the IPA was proposing to subject this procurement of renewable energy to the rate impact caps set out in Section 1-75(c)(2) the Illinois Power Agency Act (“IPA Act”).⁵ In addition, Staff objected that the IPA failed to address how its proposal can be made to comply with the “Standard Wholesale Product” requirement in the PUA.⁶ ComEd agrees with both of these Objections. It is absolutely critical that any long-term renewable proposal comply with the consumer protection provisions set out in the IPA Act. Nor can the IPA disregard, as its current proposal does, the legal restriction that it only purchase standard wholesale products. These issues can be resolved if the IPA modifies its proposal in the manner outlined below.

First, the IPA should acknowledge that the purchase of renewables must comply with both the IPA Act and the PUA. In particular, renewable purchases should be made under Section 1-75 of the IPA Act, not under section 16-111.5 of the PUA, as the IPA proposes. If long-term renewable contracts are purchased under the correct statutory process, the inherent value of the renewable energy certificate (“REC”) in any bundled long-term bid for renewable energy will need to be determined. This, however, is not a reason to use the wrong statutory process. Among the solutions is to conduct a simultaneous procurement of around-the-clock (“ATC”) block energy for a similar term. An adjustment would be required to the ATC price to put it on

² Ameren Objections, pp. 1-7.

³ Staff Objections, pp. 12-13.

⁴ Ameren Objections, pp. 6-7.

⁵ 20 ILCS 3855/1-75(c)(2).

⁶ Staff Objections, p. 14.; 220 ILCS 5/16-111.5(b)(3)(iii).

an equivalent basis to the wind energy, but ComEd is confident that such an adjustment could be reasonably made. This would determine the value of the energy in the bundled renewable product. The REC value can then be easily backed out and applied against the rate cap in the IPA Act.

ComEd understands that in response to the Objections that were filed, the IPA will be submitting more details about its proposal in its Response. ComEd reserves the right to submit a response to the IPA's more detailed proposal in the next round of comments. As already mentioned, ComEd is willing to work with the IPA, ICC Staff and all parties to develop a proposal for the procurement of long-term renewables that complies with all legal requirements. However, unless the IPA proposal addresses the Objection raised by the parties that any procurement of renewable energy be subject to the rate caps in the IPA Act, it appears inevitable that there will exist numerous issues of fact between the parties that will require hearings to be resolved. Until ComEd has had an opportunity to review the IPA's proposal, ComEd expressly does not waive its right to such a hearing.

II. Green-E Should Not Be Used to Track RECs

Constellation argued that Green-E certified renewable energy certificates ("RECs") should be allowed to be bid into the procurement on the same basis as those RECs that are tracked by PJM Environmental Information System's ("EIS") Generation Attribute Tracking ("GATS") and the Midwest Renewable Energy Tracking System ("M-RETS").⁷ Both GATS and M-RETS are very robust systems that can verify location of generation, resource type and month and year of generation, and can be used to efficiently transfer ownership of RECs. ComEd has much experience with these systems and is very satisfied with their operations. On

⁷ Constellation Objections, pp. 7-8.

the other hand, ComEd has little experience with or knowledge of the Green-E system, and very little information about the tracking capabilities of Green-E was presented by Constellation. ComEd does not believe that there is sufficient information in this docket to justify changing the proposal by the IPA to continue using GATS and M-RETS exclusively to track RECs.

Dated: October 16, 2009

Respectfully submitted,

COMMONWEALTH EDISON COMPANY

By: 

One of the Attorneys for
Commonwealth Edison Company

Darryl Bradford
Senior Vice President, Regulatory Policy &
Rates and General Counsel
Anastasia M. O'Brien
Thomas J. Russell
COMMONWEALTH EDISON COMPANY
440 S. LaSalle Street, Suite 3300
Chicago, IL 60605
(312) 894-7541
Darryl.Bradford@exeloncorp.com
Anastasia.Obrien@exeloncorp.com
Thomas.Russell@exeloncorp.com

E. Glenn Rippie
Carla Scarsella
FOLEY & LARDNER LLP
321 North Clark Street
Suite 2800
Chicago, Illinois 60602
(312) 832-4500
grippie@foley.com
cscarsella@foley.com

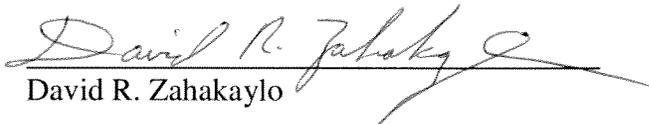
VERIFICATION OF DAVID R. ZAHAKAYLO

I, David R. Zahakaylo, having been duly sworn, do hereby say and depose under oath based on my personal knowledge as follows:

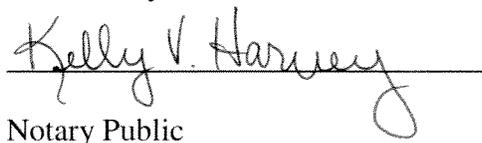
1. I am Director – Resource Adequacy and Procurement Strategy for Commonwealth Edison Company (“ComEd”) and have responsibility for managing power procurement strategy to serve ComEd’s retail and wholesale load obligations.

2. I swear and affirm that the facts stated in ComEd’s Response to the Objections to the Procurement Plan of The Illinois Power Agency Submitted by the Staff of the Illinois Commerce Commission, the Ameren Illinois Utilities, and Constellation Energy Commodities Group are true and correct, to the best of my knowledge and ability, and that ComEd believes that the analysis and recommendations included in ComEd’s Response are in accordance with the law and are appropriate for approval by the Illinois Commerce Commission.

FURTHER AFFIANT SAYETH NOT.


David R. Zahakaylo

SUBSCRIBED AND SWORN to before me
this 16th day of October, 2009.


Notary Public

