

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Power Agency)	
)	
Petition for Approval of Initial Procurement Plan.)	Docket No. 09-0373
)	

**VERIFIED REPLY TO
RESPONSES OF THE AMEREN ILLINOIS UTILITIES**

ILLINOIS POWER AGENCY’S PROPOSED PROCUREMENT PLAN

The Ameren Illinois Utilities (“AIUs”) submit its reply (“Reply”), pursuant to the Notice issued by the Administrative Law Judge on October 19, 2009, to the responses filed to by certain parties in the docket. In particular, the AIUs reply to the responses of the Illinois Power Agency (“IPA”) and Commonwealth Edison Company (“ComEd”). The AIUs’ Reply focuses on two issues: 1) the IPA proposal to procure long-term renewable resources and 2) ComEd’s proposal to conduct a simultaneous procurement of around-the-clock block energy.

1. IPA Proposal to Procure Long-Term Renewable Resources

In its response, the IPA discusses its authority to procure long-term renewable resources under the Public Utilities Act (“PUA”) and the Illinois Power Agency Act (“IPA Act”) and concludes that “There is no provision in the IPA Act or the PUA that would preclude the acquisition of energy, derived from renewable resources, outside of the minimums required to meet the RPS.” The IPA then states its intent that “these long-term power purchase agreements would satisfy eligible retail customers’ energy needs *outside of the RPS*” (emphasis added). Finally, the IPA discusses many of the related detailed terms and conditions included in its proposal.

The AIUs did not object to the concept of the IPA soliciting bids for long-term renewable resources as part of their comments and objections (“Comments”) previously filed in this docket

and they are not objecting now. To the contrary, the AIUs Comments sought to provide additional details to the IPA proposal that are critical to its success. Given the clarifications included within the IPA response, the AIUs now support the concept of procuring long-term renewable resources if certain additional modifications are made to the Plan that clearly state that the procurement of long-term renewable resources falls under Section 1-75(c) of the IPA Act and therefore will meet all the requirements of the Illinois Renewable Portfolio Standard (“RPS”). As discussed below, the IPA has not provided sufficient analysis to allow the Illinois Commerce Commission (“Commission”) to approve this aspect of the IPA procurement plan (“Plan”) under Section 16-111.5(d)(4) of the PUA. The AIUs do, however, believe the Commission could approve the proposal to solicit bids for long-term renewable resources in the context of the RPS if specific modifications to the proposal were included.

Long-Term Renewable Resource Procurement under Section 16-111.5 of the PUA

The AIUs agree that the IPA Act and the PUA do not preclude the IPA from proposing to procure energy derived from renewable resources beyond the minimum requirement of the RPS, nor do they preclude the IPA from proposing long term contracts. The PUA does, however, place certain requirements on what the IPA is to include in its Plan and defines the criteria the Commission should use when making its decision to approve or modify the Plan. Section 16-111.5(d)(4) of the PUA defines that criteria:

“The Commission shall approve the procurement plan, including expressly the forecast used in the procurement plan, if the Commission determines that it will ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability.”

Section 16-111.5(b) of the PUA defines the components to be included in a Plan. Subsection (3)(v) of this section states that the Plan for meeting the expected load requirements that will not be met through preexisting contracts should include:

“an assessment of the price risk, load uncertainty, and other factors that are associated with the proposed procurement plan; this assessment, to the extent possible; shall include an analysis of the following factors: contract terms, time frames for securing products or services, fuel costs, weather patterns, transmission costs, market conditions and governmental regulatory environment”

The IPA has provided no analysis to support its proposal to procure long-term renewable resources under Section 16-111.5, nor has any party to this proceeding offered such analysis. To the contrary, the Plan at pages 21-25 discusses the analysis performed in support of the hedging strategy included in the Plan and this analysis does not appear to support a long term energy hedging strategy.

The Plan, at page 21, begins its discussion of the “Monte Carlo model” developed and applied to the utility loads to “illustrate the trade-offs between risks and benefits associated with different procurement approaches and ratios of Forward and Index purchases.” The Plan states that product parity, market liquidity and historical price volatility were among the factors considered as part of this analysis. At page 25 of the Plan, it states “The analysis supports a recommendation of fixing the price of 30% of requirements in the procurement immediately prior to the delivery period, 35% one year earlier, and 35% two years earlier.” It is unclear to the AIUs how the Commission could make the determination required under Section 16-111.5, that the inclusion of the long-term renewable resource proposal is “at the lowest total cost over time, taking into account any benefits of price stability” when the only analysis included in the evidence, the IPA’s Monte Carlo analysis, supports just the opposite.

One additional point worth noting, at page 21 of the Plan the IPA discusses its view of the existing markets as providing sufficient liquidity to assure price competition for up to three years. It goes on to state “trading volume in the periods greater than three years into the future are presently insufficient to assure that observed prices are available, reliable, and representative.” It is unclear to the AIUs why the Commission would entertain the long term renewable resource proposal under Section 16-111.5, if in the IPA’s view the solicitation may not be competitive and the resulting price may not be representative of a market result.

B. Long-Term Renewable Resource Procurement under Section 1-75(c) of the IPA Act

The criteria the Commission must use to approve the long-term renewable resource proposal under Section 1-75(c) of the IPA Act is different than that of the PUA. The IPA Act includes three criteria purchases made to satisfy the RPS must demonstrate : 1) that the purchases satisfy the minimum percentage requirements included in Section 1-75(c)(1); 2) that the purchases do not exceed benchmarks based on market prices for renewable resources; and 3) that the purchases are “cost-effective” as defined in Section 1-75(c)(2) . The current IPA proposal could meet these criteria with minor modifications to the proposal.

First and foremost, the Plan should be modified to make clear the long-term renewable resources will be procured under Section 1-75(c) and, therefore, the RECs derived from the long term purchases would count toward the utilities’ RPS requirements. As stated above, the AIUs do not believe there is sufficient modeling and analysis on the record to allow the Commission to make the “lowest total cost over time, taking into account any benefits of price stability” determination required under 16-111.5 of the PUA, but the Commission could approve this proposal under Section 1-75(c) of the IPA Act.

Second, the Plan should also be modified to make it clear that the IPA will perform the tasks necessary to meet the benchmarking requirements and the requirement to ensure the purchases are “cost-effective” as required under Section 1-75(c). In their Comments to the Plan, the AIUs asserted that long term renewable contracts should apply to the Renewable Resource Budget (“RRB”) and “that it is essential that: 1) the methodology be known in advance of the solicitation, 2) such determination is for each year of the longer term contracts and 3) such determination is not subject to change in the future.” Also in their Comments, the AIUs offered a methodology for determining the REC value of any long-term renewable resource contracts that could be applied to the RRB. Briefly restated, the IPA would utilize a combination of actual procurement results and the energy and capacity components of the market based benchmarks to estimate the non-REC value of the long term renewable resource contracts. The REC value would then be calculated as the difference between the contract price and the non-REC value.

C. Detailed Terms and Conditions Included in the IPA Response

In reference to the specific terms and conditions provided in the IPA response, the AIUs offer the following comments pertaining to long term renewable contracts:

a. Length of PPA

The IPA now states that it will solicit bids for the following three alternatives: 10 years; 20 years; and 25 years. While the AIUs continue to prefer contract terms of 10 years or less for the reasons stated in their Comments, the IPA has added a 10 year term to its list of alternatives to be sought. The AIUs acknowledge other parties in this proceeding have stated longer term contracts may have some benefit to wind developers for reasons such as improved access to financing. The IPA proposal to accept contract terms of 10, 20 and 25 years will allow for evaluation of a wide variety of scenarios, and will enable the market to decide which contract term is most efficient.

b. Escalation / Unit Contingent

The IPA states that it will solicit bids for a unit contingent product on both a fixed-rate basis and a fixed rate with an indexed escalator. For the reasons included in their Comments, the AIUs support the unit contingent approach and while the AIUs prefer that if escalators are to be used that they be fixed escalators, the use of indexed escalators are acceptable to the AIUs.

c. Performance Guarantees

The IPA states “bidders will commit and guarantee a minimum level of energy production to be delivered per year, and will pay to Purchasers an amount per MWh of energy generated and delivered that is below that minimum guaranteed level. Calculations of total energy delivered will be completed at the end of each year, or at some other mutually agreed upon interval, and payments for any shortfall will be immediately due and payable.” The IPA position is reasonable and therefore the AIUs are in agreement with said position.

d. Location of Generation

The IPA clarifies in its Response Comments that the “IPA procurement will bid out PPAs for renewable energy from all sources – whether in Illinois or outside.” The AIUs are in agreement with the IPA position.

e. Delivery Point

The IPA also clarifies that the delivery point will be the load zone and the supplier will be responsible for costs associated with delivering power to the load zone. The AIUs previously stated in its Comments that the delivery point should be the load zone and asked for IPA clarification. The clarification by the IPA supports the AIU position that the load zone should be the delivery point for long term renewable energy contracts.

f. Delivery Commencement

The IPA indicates the “timing of delivery of produced energy will depend on project type and completion. Final contracts will incorporate a set date for the commencement of delivery.” The AIUs only comment is that the details pertaining to this issue should be addressed among the various parties responsible for RFP solicitation and evaluation such that all parties have a clear understanding of the process.

g. New vs. Existing Generation

The IPA clarifies that the procurement will consider bids from new and existing qualified resources, and the AIUs agree with the IPA position.

h. Contract Payment Conditionality

The IPA indicates that “payment obligation under the PPA will be limited by the utility’s ability to recover the cost in rates charged to customers.” The AIUs are in agreement with the IPA position.

i. Application to RPS

The IPA indicates that it “may count the REC portion of the procurement toward the RPS requirements if doing so is beneficial to consumers. As this procurement is being conducted outside of the RPS context, the RPS requirements do not apply.” For the reasons stated above in sections 1A and 1B of this Reply, the REC portion of the procurement should count toward the RPS requirements.

j. Capacity included in Long Term Renewables

The IPA has clarified that capacity will be included in the product and that it is the responsibility of the seller to register such capacity in the relevant RTO market. The AIUs support this approach.

k. Block swap quantities in light of Long Term Renewable

The IPA states it “generally agrees with Ameren that given the uncertainty of whether long-term renewable contracts will be included in the procured electricity, and the uncertainty of the type of long-term renewable energy, no changes should be made to either the swap quantities or the hedging levels.” The AIUs are pleased that the IPA has agreed with its position and have no additional comments at this time.

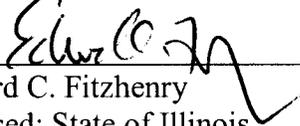
2. ComEd Simultaneous Procurement of Around-the-Clock Block Energy Proposal

ComEd suggests as a solution to determining the disaggregated value of energy and RECs from long term renewable contracts to “conduct a simultaneous procurement of around-the-clock (“ATC”) block energy for a similar term.” The AIUs acknowledge the approach suggested by ComEd may provide the most accurate methodology to identify the value of energy that will be embedded in the long-term renewable resource product being proposed by the IPA. With that said, this fact alone does not provide the Commission with sufficient evidence to approve a long term block energy product as part of the Plan. More specifically, the AIUs do not believe there is sufficient analysis demonstrating long-term block purchase as part of a least cost portfolio for the Commission to determine that including a long-term block energy product would result in “the lowest total cost over time, taking into account any benefits of price stability.”

Dated: October 26, 2009

Respectfully submitted,

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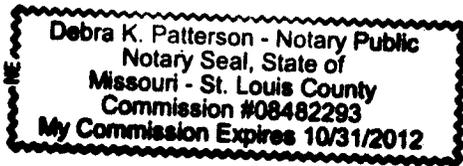
VERIFICATION

I, Edward C. Fitzhenry, being first duly sworn, hereby state that: i) I am an attorney for the Ameren Illinois Utilities, ii) that I am authorized to make this verification on their behalf, iii) that I have knowledge of the facts stated therein, iv) and that the same are true and correct to the best of my knowledge, information, and belief.



Edward C. Fitzhenry

Subscribed and sworn to before me this 26th day of October, 2009.





Notary Public

CERTIFICATE OF SERVICE

I, Edward C. Fitzhenry, hereby certify that a copy of the foregoing *Reply* on behalf of the Ameren Illinois Utilities was filed on the Illinois Commerce Commission's e-Docket and served to all parties of record in this docket on this 26^h day of October, 2009.



Edward C. Fitzhenry