

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

AMEREN ILLINOIS COMPANY d/b/a Ameren :
Illinois :
 : Docket No. 10-0568
Approval of the Energy Efficiency and Demand- :
Response Plan :

**ILLINOIS POWER AGENCY’S
DRAFT PROPOSED ORDER**

The Illinois Power Agency (“IPA” or “Agency”), by its attorneys, Kelley Drye & Warren LLP, pursuant to Section 200.800 of the Rules of Practice of the Illinois Commerce Commission (“Commission”), 83 Ill. Adm. Code 200.800, hereby submits its draft Proposed Order. The IPA acknowledges that the Proposed Order contains several sections, but chooses to submit language pertaining to what it believes is a contested issue. The IPA, therefore, presents the following language, for consideration in the Proposed Order:

Demand Response

IPA Position

The IPA stressed that Ameren’s Plan is devoid of any Demand Response programs. This exclusion, it contends, is in violation of the Act. Section 8-103(c), requires Ameren to “implement cost-effective demand-response measures to reduce peak demand by 0.1% over the prior year for eligible retail customers” 220 ILCS 5/8-103(c).

The IPA also noted Ameren’s September 30, 2010 Plan included a single DR program referred to as a “Voltage Optimization” (“Volt/VAR”) program. Ameren Ex. 1.1 at 143. The Volt/VAR program was considered “behind the scenes” and managed voltage and reactive power through its distribution and feeder systems. *Id.* at 143 and 154. The IPA contends, however, that there was no evidence of record that the Volt/VAR program was an adequate DR program that complies with Ameren’s obligation to reduce customer demand during peak load, or to shift demand from peak to off-peak. After parties criticized the Volt/VAR plan as not being a DR plan at all, but is instead an investment that Ameren is required to make as part of its ongoing distribution obligations, Ameren revised its proposal to “remove the Voltage Optimization Program from its Plan and to redistribute the program funds to the Energy Efficiency

programs...” ELPC Ex. 1.0 (Crandall) at 10-11; AG Ex. 1.0 (Mosenthal) at 51; Ameren Ex. 7.0 (Martin) at 2-3.

The net result of Ameren’s revision was that it proposed no DR program at all for the period from June 1, 2011 to May 31, 2014. The IPA contends that Ameren’s proposed EE and DR plan was, therefore, not only deficient, but unlawful and contrary to Section 8-103(c), which requires Ameren to “implement cost-effective demand-response measures to reduce peak demand by 0.1% over the prior year for eligible retail customers” 220 ILCS 5/8-103(c).

Given that Ameren proposed no DR measures, the IPA argued that the Commission should not approve Ameren’s proposed plan. The IPA further argued that if Ameren failed to implement an EE program approved by the Commission under 8-103(b), Section 13-801(f) requires the Commission to transfer “the responsibility for implementing the energy efficiency measures of the utility...” to the Illinois Power Agency. IPA Brief at 9, citing to 220 ILCS 5/8-103(f). The IPA noted that the “transfer of responsibility” to the IPA is only for EE savings required under Section 13-801(b); Section 8-103(f) does not specifically mandate that the responsibility to procure DR savings be implemented by the IPA, but the Act does require the IPA to procure DR savings measures for those Eligible Retail Customers. *Id.*

Finally, the IPA noted that for the current and previous procurement cycles, it has argued that the Act requires the IPA to conduct a competitive bid for DR in Ameren’s territory. While the Commission has rejected the IPA’s efforts to comply with its statutory mandate under Section 16-111.5(b)(3), given that Ameren no longer conducts DR for the Plan 2 period from June 1, 2011 to May 31, 2014, the Commission should now authorize the IPA to conduct a competitive bid for demand response. In the alternative, the IPA recommends that the Commission reject Ameren’s plan, and order Ameren to submit a revised plan within thirty days that includes a viable DR program that satisfies its obligations under Section 8-103(c).

Commission Conclusion

“Demand-response” is defined in Illinois as “measures that decrease peak electricity demand or shift demand from peak to off-peak periods.” 20 ILCS 3855/1-10. Section 8-103(c), requires Ameren to “implement cost-effective demand-response measures to reduce peak demand by 0.1% over the prior year for eligible retail customers” 220 ILCS 5/8-103(c).

Ameren’s September 30, 2010 filing included one DR program referred to as a “Voltage Optimization” (“Volt/VAR”) program. Ameren Ex. 1.1 at 143. Under Ameren’s proposal, it would install “Volt/VAR” devices to manage voltage and reactive power through its distribution and feeder systems. *Id.* Ameren contended that doing so would help Ameren maintain “a flatter distribution circuit profile” while still delivering to customers “an acceptable voltage at the end of the circuit.” *Id.* Ameren’s target market for its Volt/VAR program is residential and small commercial customer loads. However, the program is intended to be “behind the scenes” with “no detectable impact to households” and will cause no change in behavior by the customer. *Id.* Ameren projected the impact of the Volt/VAR program to be an annual load reduction of 4.5 MW per year. *Id.*

Ameren's Volt/VAR program was criticized as not being a DR plan at all, but is instead an investment that Ameren is required to make as part of its ongoing distribution obligations. ELPC Ex. 1.0 (Crandall) at 10-11; AG Ex. 1.0 (Mosenthal) at 51. As a result of the criticisms, Ameren revised its proposal to "remove the Voltage Optimization Program from its Plan and to redistribute the program funds to the Energy Efficiency programs... ." Ameren Ex. 7.0 (Martin) at 2-3. In addition, Ameren revised its proposed plan and increased its EE budgets and EE targets accordingly. *Id.*

The Commission agrees that the Volt/VAR program as offered by Ameren is not a DR plan. Further, the Commission agrees with the IPA that Ameren's Plan is, therefore, devoid of a DR program for the period from June 1, 2011 to May 31, 2014. As such, the Commission finds that Ameren's proposed Plan is in violation of Section 8-103(c), which requires Ameren to "implement cost-effective demand-response measures to reduce peak demand by 0.1% over the prior year for eligible retail customers" 220 ILCS 5/8-103(c). There was no evidence of record that the Volt/VAR program was an adequate DR program that complies with Ameren's obligation to reduce customer demand during peak load, or to shift demand from peak to off-peak.

While some parties have suggested that Ameren be given credit for this EE measure in satisfying its obligations under Section 8-103(e) by asserting that capturing peak savings through the residential EE programs can be viewed as meeting the statute's requirements for incremental DR resources of 0.1% per year if Ameren can demonstrate that the programs actually result in a decrease in peak demand or a shift of demand from on-peak to off-peak periods, there is no evidence demonstrating that the Volt/VAR program reduces demand. In fact, Ameren's evidence is to the contrary. According to Ameren, the Volt/VAR devices allow Ameren to control the delivery of supply, and to provide "a flatter distribution circuit profile" while still delivering to customers "an acceptable voltage at the end of the circuit." Ameren Ex. 1.1 at 152. Further, the Volt/VAR devices do not actually modify demand behavior. As Ameren acknowledged, the devices are installed "behind the scenes," are not detectable by the customer, and result in no change in behavior by the customers. *Id.* at 154. Therefore, with the exclusion of the Volt/VAR program, Ameren's proposed plan contains no DR measures as required by the Act.

The Commission is now left to determine next steps. Section 8-103(f) provides that if Ameren's does not propose a plan that satisfies "the utility's portion of the energy efficiency standards identified in subsection (b) and the demand-response standards identified in subsection (c)" the Commission may enter an order disapproving the Plan. 220 ILCS 5/8-103(f). If the Commission disapproves the plan, "the Commission shall, within 30 days, describe in detail the reasons for the disapproval and describe a path by which the utility may file a revised draft of the plan to address the Commission's concerns satisfactorily." *Id.*

Further, as the IPA correctly points out, if Ameren fails to implement an EE program approved by the Commission under 8-103(b), Section 13-801(f) requires the Commission to transfer "the responsibility for implementing the energy efficiency measures of the utility..." to the Illinois Power Agency 220 ILCS 5/8-103(f). Notably, the "transfer of responsibility" to the IPA is only for EE savings required under Section 13-801(b); Section 8-103(f) does not

specifically mandate that the responsibility to procure DR savings be implemented by the IPA. However, the Act does require the IPA to procure DR savings measures for those Eligible Retail Customers. 220 ILCS 5/16-111.5(b)(3)(ii). Specifically, Section 16-111.5(b)(3) requires the IPA to provide a plan “for meeting the expected load requirements that will not be met through preexisting contracts. This plan *shall* include:”

ii. the proposed mix of demand-response products for which contracts will be executed during the next year. The cost-effective demand-response measures shall be procured whenever the cost is lower than procuring comparable capacity products, provided that such products shall:

(A) be procured by a demand-response provider from eligible retail customer;

(B) at least satisfy the demand-response requirements of the [RTO] market in which the utility’s service territory is located, including, but not limited to, any applicable capacity or dispatch requirements;

(C) provide for customers’ participation in the stream of benefits produced by demand-response products;

(D) provide for reimbursement by the demand-response provider of the utility for any costs incurred as a result of the failure of the supplier of such products to perform its obligations thereunder; and

(E) meet the same credit requirements as apply to suppliers of capacity, in the applicable regional transmission organization market.

While the Commission has not previously permitted the IPA to conduct a competitive bid for DR in Ameren’s territory, we find that the circumstances in this case compel us to reconsider. The Commission, therefore, authorizes the Illinois Power Agency to conduct a competitive procurement to solicit bids from third-party demand response providers that will satisfy Ameren’s minimum DR obligations under Section 8-103(c). The IPA shall follow its procurement procedures set forth in Section 16-111.5, and procure demand response resources. The Commission will enter an order consistent with this provision in the IPA’s procurement proceeding *In re Petition for Approval of Procurement Plan*, ICC Docket No. 10-0563.

Wherefore, the Illinois Power Agency submits the aforementioned draft Proposed Order sections for inclusion in the final Proposed Order.

Dated: November 29, 2010

Respectfully submitted,

Illinois Power Agency

By: 

One of its Attorneys

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NOTICE OF FILING

Please take notice that on November 29, 2010, I caused to be filed via the Illinois Commerce Commission's eDocket, the **ILLINOIS POWER AGENCY'S DRAFT PROPOSED ORDER**. A copy of the foregoing documents are hereby served upon you.



Henry T. Kelly, attorney for the
Illinois Power Agency

CERTIFICATE OF SERVICE

I, Henry T. Kelly, an attorney, on oath state that I served a copy of the **ILLINOIS POWER AGENCY'S DRAFT PROPOSED ORDER** on the service list maintained on the Illinois Commerce Commission's eDocket system for the instant docket via electronic delivery on November 29, 2010.



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