

**STATE OF ILLINOIS**

**ILLINOIS COMMERCE COMMISSION**

Illinois Power Agency )  
 )  
Petition for Approval of the 220 ILCS ) **Docket No. 12-0544**  
5/16-111.5(d) Procurement Plan )

ILLINOIS COMMERCE  
COMMISSION  
2012 NOV 30 A 11:18  
CHIEF CLERK'S OFFICE

**C3 ENERGY  
REPLY BRIEF ON EXCEPTIONS**

**I. INTRODUCTION**

C3, Inc. d/b/a/ C3 Energy ("C3") respectfully submits to the Illinois Commerce Commission ("ICC" or "Commission") this Reply Brief on Exceptions to the Administrative Law Judge's Proposed Order ("ALJPO"), pursuant to Illinois Administrative Code § 200.830. This Reply addresses an exception raised by the Staff of the ICC ("Staff"). For the reasons set forth below, as well as those set forth in C3's objections and reply to objections, the Commission should enter a Final Order consistent with the exceptions requested by C3.

**II. EXCEPTION**

**A. Staff's Exception Regarding Energy Savings Goals (ALJPO at 261-222)**

The ALJPO correctly includes the energy savings attributable to the impact of the C3 Energy program in its calculation of savings goals applicable to Commonwealth Edison Company ("ComEd"). ALJPO at 261-262. Staff argues that savings attributable to the C3 Energy program should be excluded from the Commission's calculation of ComEd's net MWh savings busbar goal. Staff Br. on Exceptions at 5, ICC Docket No. 12-0544 (Nov. 21, 2012). Staff claims that this exception is supported by the ALJPO's conclusion stating that "C3 Energy has not adequately supported its 3.8 years measure proposal." *Id.* at 4 (citing ALJPO at 261). But even with the changes made by ComEd to the analysis of the C3 Energy program (removing

duplicative savings, removing natural gas savings, including incremental measure costs, and removing savings attributable to solar panels), the C3 Energy program passes the total-resource cost-effectiveness test (“TRC”) with a result of 1.86. ComEd Verified Response at 24, ICC Docket No. 12-0544 (Oct. 12, 2012). Although C3 Energy does not believe that the Commission has ever addressed the proper measure life of behavioral actions, to be on the safe side, the re-analysis performed by ComEd assumes that “behavioral actions in the Energy Saver have a measure life of one year.” C3 Reply at 3, ICC Docket No. 12-0544 (Oct. 22, 2012). Indeed, the Illinois Power Agency (“IPA”) did not object to the changes proposed by ComEd in finding that the C3 Energy program was cost-effective. IPA Reply at 8, ICC Docket No. 12-0544 (Oct. 22, 2012). The Commission “shall also approve” energy efficiency programs that are cost-effective and included for procurement by the IPA. 220 ILCS 5/16-111.5B. Therefore, the ALJPO’s inclusion of energy savings attributable to the impact of the C3 Energy program should be affirmed by the Commission, and Staff’s proposed exception in this regard should be denied. In addition, the following changes should be made by the Commission to page 261 of the ALJPO to properly include all cost-effective increment energy efficiency programs:

In its filings, C3 recommends that ComEd and AIC apply a measure life of 3.8 years, instead of one year, to all incremental customer engagement, or behavioral, programs, and include those programs with a TRC test result greater than 1.0 for procurement by the IPA. This proposal is opposed by several a few parties. However, Staff cites no Commission approved measure life for behavioral programs, and C-3 has sufficiently shown why 3.8 years is a reasonable measure life for its program. Additionally, ComEd made its own changes to its analysis of the C-3 program and found that the program was cost-effective with a TRC result of 1.86. The IPA had no objection to ComEd’s final analysis of the C-3 program. Among other things, ComEd and AIC contend, and the Commission agrees, that the TRM process, rather than the instant docket, is the more appropriate forum to consider C3’s proposal for changes in the measure life values.

~~AIC, ComEd and Staff also contend, and the Commission agrees, that C-3 has not adequately supported its 3.8 years measure proposal. C-3 explained, and the Commission agrees, that ComEd made changes to remove any double-counting of savings, that the share of savings due to technology actions is conservatively estimated against C-3's favor, and that the savings (but not necessarily actions) generated by C3's Massachusetts program were at least 33% technology-based. As explained by Staff, the efficiency measures reported in the study relied upon by C3 were not based on empirical analysis; and an evaluation of a C3 program offered in Massachusetts found that usage-based measures have unknown persistence trends. As further noted by Staff, the measure life previously approved by the Commission for behavioral programs is one year. (Staff Response at 33-35) In conclusion, the Commission finds that C3's recommendation will not be adopted in this proceeding.~~

### III. CONCLUSION

The Commission should adopt the language proposed by C3 for the reasons set forth above and for those found in C3's objections and reply to objections.

Dated: November 29, 2012

Respectfully submitted,



---

Patricia M. Downey  
Counsel for C3, Inc. d/b/a "C3 Energy"  
2835 Hillside Drive  
Burlingame, CA 94010

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

**ILLINOIS POWER AGENCY**

)

)

**Docket No. 12-0544**

**Petition for Approval of the**

)

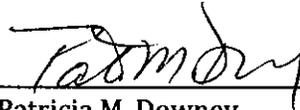
**220 ILCS 5/16-111.5(d) Procurement Plan )**

**NOTICE OF FILING**

To: All Persons on the Attached Service List.

**PLEASE TAKE NOTICE** that I submitted for filing the attached C3 Energy Reply Brief on Exceptions, Request to Appear Pro Hac Vice, and Affidavit of Patricia M. Downey in the above-captioned matter, to the Chief Clerk of the Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, Illinois, 62701.

Dated: November 29, 2012



---

Patricia M. Downey  
Counsel for C3, Inc. d/b/a "C3 Energy"  
2835 Hillside Drive  
Burlingame, CA 94010  
(650) 777-7844  
patty@downeylegalsolutions.com

**CERTIFICATE OF SERVICE**

I, Patricia M. Downey, hereby certify that on November 29, 2012, I served the above-mentioned documents upon all active parties of record by electronic mail to the individuals on the Commission's Service List for Docket 12-0544.



---

Patricia M. Downey  
Counsel for C3, Inc. d/b/a "C3 Energy"  
2835 Hillside Drive  
Burlingame, CA 94010  
(650) 777-7844  
patty@downeylegalsolutions.com

## Service List

Kyle C. Barry  
Atty. for FutureGen Industrial Alliance, Inc.  
McGuireWoods LLP  
One Old State Capitol Plz., Ste. 410  
Springfield, IL 62701

Stephen Bennett  
Manager  
State Government Affairs  
Exelon Energy Company  
300 Exelon Way  
Kenneth Square, PA 19348

Wayne Bollinger  
General Manager  
Electric  
Nordic Energy Services, LLC  
625 Plainfield Rd., Ste. 226  
Willowbrook, IL 60527

William Borders  
Deputy General Counsel  
Invenergy LLC  
One S. Wacker Dr., Ste. 1900  
Chicago, IL 60606

Roy Boston  
Strategic Planning & Policy Manager-East  
Noble Americas Solutions LLC  
1901 Butterfield Rd., Ste. 660  
Downers Grove, IL 60515

Sean R. Brady  
Regional Policy Manager  
Wind on the Wires  
858 W. Armitage Ave., Ste. 239  
Chicago, IL 60614-4329

Jessica L. Cardoni  
Office of General Counsel  
Illinois Commerce Commission  
160 N. LaSalle St., Ste. C-800  
Chicago, IL 60601

Ron Cerniglia  
Director - National Advocacy  
Governmental & Regulatory Affairs  
Direct Energy Services, LLC  
40 Columbine Dr.  
Glenmont, NY 12077-2966

Brenda Crockett  
Vice President  
champion Energy Services  
1500 Rankin Rd., Ste. 200  
Houston, TX 77073

Louis D'Alessandris  
FirstEnergy Solutions Corp.  
395 Ghent Rd.  
Akron, OH 44333

Michael D'Angelo  
General Counsel  
North American Power and Gas, LLC  
One Marshall St., Ste. 205  
Norwalk, CT 06854

James C. Deering  
President  
Nordic Energy Services, LLC  
One Tower Ln., Ste. 300  
Oakbrook Terrace, IL 60181

Jay H. Dillavou  
MidAmerican Energy Company  
PO Box 657  
666 Grand Ave.  
Des Moines, IA 50303

Erika Dominick  
Illinois Regulatory Paralegal  
Ameren Services Company  
1901 Chouteau Ave.  
PO Box 66149  
St. Louis, MO 63166-6149

John Feeley  
Office of General Counsel  
Illinois Commerce Commission  
160 N. LaSalle, Ste. C-800  
Chicago, IL 60601

David I. Fein  
Vice President  
State Government Affairs - East  
Exelon Corporation  
10 S. Dearborn St., 50th Fl.  
Chicago, IL 60603

Edward C. Fitzhenry  
Managing Associate General Counsel  
Ameren Illinois Company  
1901 Chouteau Ave.  
PO Box 66149 (M/C 1310)  
St. Louis, MO 63166-6149

Cynthia Fonner Brady  
Asst. General Counsel  
Exelon Business Services Company  
4300 Winfield Rd.  
Warrenville, IL 60555

Carmen L. Fosco  
Atty. for Commonwealth Edison Company  
Rooney Rippie & Ratnaswamy LLP  
350 W. Hubbard St., Ste. 600  
Chicago, IL 60654

Gerard T. Fox  
Atty. for RESA  
Law Offices of Gerard T. Fox  
Two Prudential Plaza  
180 N. Stetson St., Ste. 3500  
Chicago, IL 60601

Keith Goerss  
Ameren Illinois Company  
300 Liberty St.  
Peoria, IL 61602

John P. Gomoll  
Atty. for ICEA  
John P. Gomoll, Attorney at Law  
PO Box 211  
Saint Charles, IL 60174

Craig Gordon  
Invenergy LLC  
One S. Wacker Dr., Ste. 1900  
Chicago, IL 60606

Amy Hamilton  
Exelon Energy Company  
300 Exelon Way  
Kennett Square, PA 19348

Sharon M. Hillman  
MC Squared Energy Services, LLC  
10 S. Riverside Plaza, Ste. 1800  
Chicago, IL 60606

Seth Hopson  
North American Power and Gas, LLC  
One Marshall St., Ste. 205  
Norwalk, CT 06854

Larry Jones  
Administrative Law Judge  
Illinois Commerce Commission  
527 E. Capitol Ave.  
Springfield, IL 62701

Henry T. Kelly  
Atty. for The Illinois Power Agency  
Kelley Drye & Warren LLP  
333 W. Wacker Dr., Ste. 2600  
Chicago, IL 60606

Robert Kelter  
Sr. Attorney  
Environmental Law & Policy Center  
35 E. Wacker Dr., Ste. 1600  
Chicago, IL 60601

John F. Kennedy  
Atty. for ICEA  
Shefsky & Froelich Ltd.  
111 E. Wacker Dr., Ste. 2800  
Chicago, IL 60601

Bradley D. Klein  
Sr. Attorney  
Environmental Law & Policy Center  
35 E. Wacker Dr., Ste. 1600  
Chicago, IL 60601

Melissa Lauderdale  
Integrays Energy Services, Inc.  
549 Bluehaw Dr.  
Georgetown, TX 78628

Tom Leigh  
Ameren Energy Marketing  
MC 902  
1701 Gratiot  
St. Louis, MO 63103

Erin K. Lynch  
Atty. for ICEA  
Shefsky & Froelich Ltd.  
111 E. Wacker Dr., Ste. 2800  
Chicago, IL 60601

Mark J. McGuire  
Executive Vice President & General Counsel  
MC Squared Energy Services, LLC  
2 N. Riverside Plz., Ste. 1350  
Chicago, IL 60606

Carla S. Meiners  
Senior Attorney  
MidAmerican Energy Company  
4299 NW Urbandale Dr.  
Urbandale, IA 50322

Stephen J. Moore  
Atty. for NRDC  
Rowland & Moore LLP  
200 W. Superior St., Ste. 400  
Chicago, IL 60610

Elias Mossos  
Atty. for FutureGen Industrial Alliance, Inc.  
McGuireWoods LLP  
77 W. Wacker Dr., Ste 4100  
Chicago, IL 62601

Bridgett Neely  
Green Mountain Energy Company  
300 W. 6th St.  
Austin, TX 78701

Thomas S. O'Neill  
Sr. Vice President & General Counsel  
Commonwealth Edison Company  
440 S. LaSalle St., Ste. 3300  
Chicago, IL 60605

Vincent A. Parisi  
General Counsel  
ISG Energy  
6100 Emerald Pkwy.  
Dublin, OH 43016

Cary Platkin  
Lead Counsel  
Legal Affairs  
C3 Energy  
1300 Seaport Blvd., Ste. 500  
Redwood City, CA 94063

Susan Poll-Klaessy  
Atty. for ICEA  
Shefsky & Froelich Ltd.  
111 E. Wacker Dr., Ste. 2800  
Chicago, IL 60601

Alan L. Potts  
Ameren Energy Marketing  
1701 Gratiot, MC 902  
St. Louis, MO 63103

Kevin D. Rhoda  
Atty. for NRDC  
Rowland & Moore LLP  
200 W. Superior St., Ste. 400  
Chicago, IL 60610

Teresa L. Ringenbach  
Manager  
Government & Regulatory Affairs (Midwest)  
Direct Energy, LLC  
9605 El Camino Lane  
Plain City, OH 43064

E. Glenn Rippie  
Atty. for Commonwealth Edison Company  
Rooney Rippie & Ratnaswamy LLP  
350 W. Hubbard St., Ste. 600  
Chicago, IL 60654

Eric Robertson  
Atty. for IIEC  
Lueders, Robertson, Konzen  
1939 Delmar Ave.  
P.O. Box 735  
Granite City, IL 62040

Thomas Rowland  
Atty. for NRDC  
Rowland & Moore LLP  
200 W. Superior St., Ste. 400  
Chicago, IL 60610

Thomas J. Russell  
Exelon Business Services  
10 S. Dearborn St., 49th Fl.  
Chicago, IL 60603

Caitlin M. Shields  
Atty. for Commonwealth Edison Company  
Rooney Rippie & Ratnaswamy LLP  
350 W. Hubbard St., Ste. 600  
Chicago, IL 60654

Christopher N. Skey  
Atty. for Intervenors  
Quarles & Brady LLP  
300 N. LaSalle St., Ste. 4000  
Chicago, IL 60654

Rebecca Stanfield  
Sr. Energy Advocate  
Natural Resources Defense Council  
2 N. Riverside Plz., Ste. 2250  
Chicago, IL 60606

Michael R. Strong  
Chief Legal Officer  
Illinois Power Agency  
160 N. LaSalle St., Ste. N-506  
Chicago, IL 60601

Richard Suchant  
Direct Energy Services, LLC  
1001 Liberty Ave.  
Pittsburgh, PA 15222

Matthew R. Tomc  
Ameren Illinois Company  
PO Box 66149, MC 1310  
1901 Chouteau Ave.  
St. Louis, MO 63166

Christopher J. Townsend  
Atty. for Intervenors  
Quarles & Brady LLP  
300 N. LaSalle St., Ste. 400  
Chicago, IL 60654

Julie Voeck  
NextEra Energy Resources, LLC  
700 Universe Blvd.  
Juno Beach, FL 33408

Derek Waite  
Ameren Energy Marketing  
1701 Gratiot, MC 902  
St. Louis, MO 63103

Kevin Wright  
President  
Illinois Competitive Energy Association  
1601 Clearview Dr.  
Springfield, IL 62704

**Richard Zuraski**  
**Case Manager**  
**Illinois Commerce Commission**  
**527 E. Capitol Ave.**  
**Springfield, IL 62701**