

**APPEAL TO
THE ILLINOIS APPELLATE COURT, FIRST DISTRICT
FROM THE ILLINOIS COMMERCE COMMISSION**

ILLINOIS COMPETITIVE ENERGY ASSOCIATION,)	From the March 20, 2013
)	Order of the Illinois Commerce Commission,
)	Docket No. 12-0544
<i>Petitioner-Appellant,</i>)	
)	
v.)	
)	
ILLINOIS COMMERCE COMMISSION;)	
COMMONWEALTH EDISON COMPANY;)	
AMEREN ILLINOIS COMPANY; C3, INC.;)	
COALITION OF ENERGY SUPPLIERS;)	
CONSTELLATION NEWENERGY, INC.;)	
ENVIRONMENTAL LAW & POLICY)	
CENTER; EXELON GENERATION)	
COMPANY, LLC; FUTUREGEN)	
INDUSTRIAL ALLIANCE, INC.; ILLINOIS)	
COALITION TO ADVANCE RENEWABLE)	
ENERGY; ILLINOIS INDUSTRIAL)	
ENERGY CONSUMERS; ILLINOIS)	
POWER AGENCY; NATIONAL)	
RESOURCES DEFENSE COUNCIL;)	
RETAIL ENERGY SUPPLY)	
ASSOCIATION; WIND ON THE WIRES,)	
)	
<i>Respondents-Appellees.</i>)	

NOTICE OF FILING

TO: Elizabeth Rolando, Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701

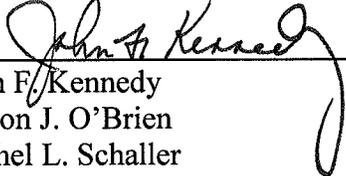
All parties on the
Attached Service List

Please take note that on April 3, 2013, the undersigned caused to be filed with the Clerk of the Illinois Commerce Commission, 527 E. Capitol Ave., Springfield, Illinois, 52701, the

attached Notice of Appeal, via e-Docket, on behalf of the Illinois Competitive Energy Association (“ICEA”), a copy of which is hereby served upon you.

Dated: April 3, 2013

Respectfully submitted,

By:  _____

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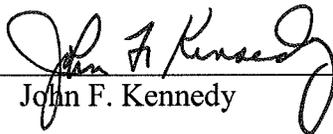
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Illinois Commerce Commission	Attached Service List
527 East Capitol Avenue	
Springfield, Illinois 62701	

Petitioner-Appellant the ILLINOIS COMPETITIVE ENERGY ASSOCIATION (“ICEA”), in accordance with section 10-201 of the Illinois Public Utilities Act, 220 ILCS 5/10-201, 83 Ill. Admin. Code § 200.890, Illinois Supreme Court Rules 301, 303 and/or 335, and other applicable law, hereby petitions the Appellate Court of Illinois, First District, for review of

the Illinois Commerce Commission's ("Commission") March 20, 2013 order entered in the matter of Illinois Power Agency: Petition for Approval of the 220 ILCS 5/16-111.5(d) Procurement Plan, ICC Docket No. 12-0544, denying the Application for Rehearing of Amendatory Order filed by ICEA and the Illinois Industrial Energy Consumers on February 28, 2013. ICEA seeks reversal of the above-referenced order (which is related to its earlier petition for review and appeal in matter number 1-13-0632), remand of this matter to the Commission for any appropriate further proceedings and for the entry of an appropriate order, and for any other and further relief that ICEA may be entitled to on appeal.

Dated: April 3, 2013

Respectfully submitted,

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*Attorneys for Illinois Competitive
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STATE OF ILLINOIS



ILLINOIS COMMERCE COMMISSION

March 21, 2013

The Illinois Power Agency :
: 12-0544
Petition for Approval of the 220 ILCS :
5/16-111.5(d) Procurement Plan. : **SERVED ELECTRONICALLY**

NOTICE OF COMMISSION ACTION

TO ALL PARTIES OF INTEREST:

Notice is hereby given that the Commission in conference on March 20, 2013, DENIED the Application for Rehearing of Amendatory Order, filed by Illinois Competitive Energy Association and Illinois Industrial Energy Consumers on February 28, 2013.

Related memoranda will be available on our web site (www.icc.illinois.gov/e-docket) in the docket number referenced above.

Sincerely,

Elizabeth A. Rolando
Chief Clerk

EAR:ikb
Administrative Law Judge Jones

cc: Policy Ms. Hathhorn – Accounting Ms. Phipps – Finance
Ms. Hinman
Mr. Zolnierak

**VOTING RECORD OF
MATTERS BEFORE THE COMMISSION**

Meeting Date: 03/20/2013 10:30 AM **Agenda No.:** PR-1

Docket No.:
12-0544

Staff Members Presenting Matters to the Commission:
Larry Jones, Administrative Law Judge

Name of Utility and Nature of Matter:
The Illinois Power Agency

Petition for Approval of the 220 ILCS 5/16-111.5(d) Procurement Plan.

Application for Rehearing of Amendatory Order, filed by Illinois Competitive Energy Association and Illinois Industrial Energy Consumers on February 28, 2013.

Commission Action:
DENIED

All Commissioners present unless otherwise noted

Voting:

X Scott
X Colgan
N McCabe
X del Valle (Acting)
AB Maye (Acting)

A = Absent
AB = Abstains
C = Concurs
CP = Concurs in Part
D = Dissents
DP = Dissents in Part
N = No
R = Recuse
X = Yes

Docket No.: 12-0544
Bench Date: 03/20/13
Deadline: 03/20/13

MEMORANDUM

TO: The Commission

FROM: Larry Jones, Administrative Law Judge

DATE: March 8, 2013

SUBJECT: Illinois Power Agency ("IPA")
Petition for Approval of the 220 ILCS 5/16-111.5(d)
Procurement Plan.

REQUEST: Application for Rehearing of Amendatory Order entered January 29, 2013, filed jointly by the Illinois Competitive Energy Association ("ICEA") and the Illinois Industrial Energy Consumers ("IIEC") on February 28, 2013.

On December 19, 2012, the Commission entered an Order ("Procurement Order") approving, with modifications, the "2013 Electricity Procurement Plan" ("Procurement Plan") filed by the IPA. The plan applies to the upcoming "2013-2014" delivery year, which is June 2013 through May 2014, as well as to the four one-year delivery periods after that.

Among other things, the Commission granted approval of the inclusion of the proposed FutureGen 2.0 clean coal project in the Procurement Plan for delivery beginning in 2017. The Commission also found that pursuant to a sourcing agreement, purchases of FutureGen output for delivery to customers of both utilities and Alternative Retail Electric Suppliers ("ARES") would be required. The Order also found that a Phase 2 proceeding should be initiated to make determinations on the remaining contested issues regarding the proposed sourcing agreement.

The Procurement Order was the subject of several applications for rehearing, all of which took issue with findings in the Order on various FutureGen issues. All the applications for rehearing of the Procurement Order were denied on January 29, 2012, including one filed jointly by ICEA, whose members are competitive energy providers, and IIEC. Following denial of rehearing, notices of appeal were filed with the Appellate Court by several parties, including ICEA and IIEC.

Amendatory Order and Rehearing Application

On January 29, 2013, the Commission also entered an Amendatory Order which adopted certain modifications to the Procurement Order as requested in a Joint Motion for Clarification filed on behalf of Commonwealth Edison Company, Ameren Illinois Company and FutureGen Industrial Alliance, Inc.

In their joint application for rehearing of the Amendatory Order, the ICEA and IIEC address one such "substantive" modification whereby the portion of FutureGen sourcing agreement costs to be charged to ARES customers would be collected through a competitively neutral charge rather than through a delivery service charge as was ordered in the Procurement Order. They argue that an assessment of such charges on ARES' customers is not supported by statutory authority regardless of whether such charges are collected through a competitively neutral charge or a delivery service charge.

ICEA and IIEC "request rehearing of the Commission's findings in the Amendatory Order that the [Commission] Staff's alternative proposal allows utilities to recover costs incurred under the FutureGen sourcing agreement through charges assessed on ARES' customers."

The Parties seeking rehearing do not appear to be requesting an opportunity to present additional evidence. I recommend that rehearing of the Amendatory Order not be granted for purposes of taking additional evidence.

With respect to whether reconsideration or rehearing of the Amendatory Order should be granted for purposes of reaching a different decision on the issues addressed in the rehearing application, I do not have a recommendation. I would note that denial would appear to be consistent with the Commission's denial of the same Parties' application for rehearing of the December 19, 2012 Procurement Order.

The 20-day deadline for Commission action on the rehearing application is March 20, 2013.

LMJ/lw

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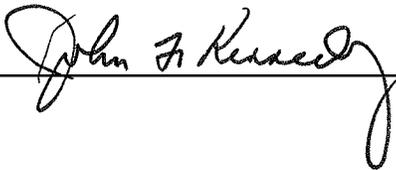
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LMJ/lw

PROOF OF SERVICE

I, John F. Kennedy, hereby certify that a copy of the above *Notice of Filing*, together with a copy of *Notice of Appeal* referred to therein, have been served upon all parties on the attached service list by deposit in the United States mail, first class postage prepaid, at 111 E. Wacker Dr., Chicago, Illinois and by electronic mail, before 5:00 pm, on this the 3rd day of April, 2013.

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