

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

ILLINOIS POWER AGENCY)	
)	
Petition for Approval of the IPA’s)	Docket No. 14-0651
Supplemental Procurement Plan pursuant)	
to Section 1-56(i) of the Illinois Power)	
Agency Act)	

**VERIFIED RESPONSES OF THE ENVIRONMENTAL LAW & POLICY CENTER
TO OBJECTIONS TO THE IPA’S 2015 SUPPLEMENTAL PROCUREMENT PLAN**

The Environmental Law & Policy Center (“ELPC”) respectfully submits these comments in response to objections to the Illinois Power Agency’s (“IPA”) 2015 Supplemental Procurement Plan. ELPC generally supports the Plan proposed by the IPA, although we acknowledge that the Illinois Solar Energy Association (“ISEA”) has raised several points that could improve the Plan, particularly with regard to the importance of supporting a balanced and diverse renewable energy marketplace that includes a “medium-sized” tier of small commercial distributed generation projects. (ISEA Objection at 2-4) We note that Staff finds nothing objectionable in the Plan (Staff Comments at 2) while ComEd and Ameren have filed more extensive objections to the Plan. The following comments are directed at ComEd and Ameren’s objections.

A. The Commission Should Approve the IPA’s Discretion to Procure Exclusively New Distributed Solar Resources.

ComEd and Ameren object to the IPA’s proposal to focus the supplemental procurement exclusively on renewable energy credits from new photovoltaic systems. (ComEd Objection at 2) While the utilities may disagree with the IPA’s exercise of discretion, they have not identified any conflict with the language of Section 1-56(i) or any other legal basis for overturning the

IPA's Plan. Section 1-56(i) of the IPA Act authorizes the IPA to procure resources from "new *or* existing photovoltaics" and directs the IPA to determine the correct balance. 20 ILCS 3855/1-56(i)(1) (emphasis added) The IPA Plan sets forth a clear policy preference for new resources, concluding that the development of new photovoltaics in Illinois is a preferable way to "maximize the value" of the pooled alternative compliance payments in the RERF and position the IPA to best meet the statutory goal of producing the "lowest total cost over time." (IPA Plan at 12) The IPA also notes that SRECs from "existing" projects will be procured using renewable resource budget funds, as proposed in the parallel ICC Docket 14-0588. (IPA Plan at 12, fn 66)

There was substantial discussion of this issue in the IPA workshop process and different points of view were expressed by different parties. The IPA is in the best position to balance these competing policy preferences, and the Illinois General Assembly gave the IPA the discretion to make the decision about the optimal resource selection to best meet the policy goals of the state. The ICC should not overturn this careful exercise of the IPA's discretion simply because Ameren and ComEd prefer a different outcome.

B. The Commission Should Approve the IPA's Proposal to Procure Renewable Energy Credits from Both Sub-25 kW and 25kW to 2 MW Market Segments.

ComEd and Ameren object to the IPA's proposal to procure RECs from distributed generation resources within each individual market segment (sub-25 kW, and 25kW to 2 MW) instead of pooling all resources together and procuring solely on the basis of price. (ComEd Objection at 4) However, as noted by the IPA, "the plain language of Section 1-56(i)(1) supports—if not mandates—the procurement of potentially more expensive RECs from sub-25 kW systems through an express procurement target for systems below 25 kW in size." (IPA Plan at 13)

The utilities' interpretation that the IPA should ignore the specific statutory requirement to procure resources from sub-25 kW system unless those RECs can be procured at price that is lower than all RECs from other larger systems is not reasonable and conflicts with several canons of statutory construction, including the principle that specific statutory language should control over more general provisions. If the General Assembly had intended price to be the only factor relevant to the IPA's selection of resources it would have said so. Instead, the General Assembly provided the IPA with several specific statutory directives and goals, including, to the extent available, a specific requirement to procure at least half of the DG resources from "devices of less than 25 kilowatts in nameplate capacity." 20 ILCS 3855/1-56(i)(1) Due to economies of scale, it is unlikely that the under-25 kW category of DG projects will ever be available at the same price as DG RECs from larger systems. Thus, ComEd's argument to elevate price over all other statutory factors would likely ensure that the IPA could never reach the market diversity goals that the General Assembly included in the statute.

The Commission has previously rejected a similar argument raised by ComEd. The 2012 Procurement Year was the last year in which there was a renewable procurement, and the Commission approved a plan that allowed the IPA to "sort bids according to price and source" and "select the lowest bid combination that yields at least the minimum carve out requirements..." (IPA 2012 Plan at page 53) The same principle applies to the procurement of distributed generation resources as other resources and the Commission should continue to allow the IPA to create separate benchmarks for different resources, and allow the IPA to procure the bid combinations that meet the minimum carve out requirements.

Dated: November 20, 2014

Respectfully Submitted,

A handwritten signature in black ink that reads "Brad Klein". The signature is written in a cursive, flowing style.

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AFFIDAVIT OF BRAD KLEIN

I, Brad Klein, affirm that I have personal knowledge of the contents of these *Verified Responses of the Environmental Law & Policy Center to Objections to the IPA's 2015 Supplemental Procurement Plan*, which are to the best of my knowledge, true and accurate.



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Sworn or affirmed before me
this 20 day of November, 2014.



Notary Public
My commission expires: August 28, 2017

