

**ORIGINAL**

ILLINOIS COMMERCE  
COMMISSION

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**OFFICIAL FILE**  
**ILLINOIS COMMERCE COMMISSION**

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

ILLINOIS POWER AGENCY )

Petition for approval of the 2015 IPA )

Procurement Plan Pursuant to Section 16- )

111.5(d)(4) of the Public Utilities Act )

ICC Docket No. 14-0588 CHIEF CLERK'S OFFICE

**EXCEPTIONS OF SARGAS, INC. TO THE PROPOSED ORDER OF THE  
ADMINISTRATIVE LAW JUDGE RELATING TO THE ILLINOIS POWER  
AGENCY'S PROCUREMENT PLAN**

Sargas, Inc. ("Sargas") submits its Exceptions to the proposed order ("Proposed Order") of the administrative law judge, pursuant to the Notice issued on November 13, 2014.

Sargas appreciates the acknowledgement in the Proposed Order that there are no prohibitions against the consideration of a clean coal competitive procurement as outlined by Sargas. (Proposed Order at 293). Sargas simply seeks an open competitive procurement process for allowing any qualified clean coal facility the opportunity to bid -- Sargas seeks no special concessions or treatment for itself. Sargas has always maintained that its design and performance make it a "clean coal facility" as that term is defined in the Illinois Statutes. Finally, Sargas believes that the positions taken by the IPA, ICC staff and the administrative law judge, will effectively end the possibility of any future projects being considered under the clean coal portfolio statute as they are currently written, and therefore will directly thwart the direct intent of the Illinois Legislature in the promotion of the development of clean coal facilities in Illinois.

Sargas proposes the following changes to the Proposed Order:

Sargas, ICA, and IBEW and Plumbers & Steamfitters urge the Commission to include a competitive clean coal procurement in the Plan. Sargas argues that the Commission and IPA have the discretion to include in procurement plans the type of facility it is proposing. This proposal is opposed by the IPA, Staff, ComEd, Ameren, ICEA, RESA, and IIEC. Among other

things, the parties opposed to the Sargas proposal claim that such a procurement is not authorized by the IPA Act or the PUA.

~~Assuming for the moment that the proposed Sargas facility qualified as a clean coal facility under Illinois law, there is essentially no discussion of how the IPA or the Commission would develop or evaluate a sourcing agreement with such a clean coal facility. This is in stark contrast to the detailed explanation of the requirements for, the approval process, and associated sourcing agreements associated with the initial clean coal facility and the re-powered and retrofitted coal power plants previously owned by Illinois utilities which qualify as clean coal facilities. The Commission finds this lack of detail a barrier to any evaluation.~~

The Commission has carefully reviewed the PUA and the IPA and there is extensive discussion of the initial clean coal facility and re-powered and retrofitted coal power plants previously owned by Illinois utilities which qualify as clean coal facilities. While there are few reference to the generic term clean coal facility; there is no specific reference to, or discussion of, what Sargas describes as a greenfield facility. The Commission acknowledges, however, that neither the PUA nor the IPA Act explicitly prohibits consideration of clean coal facilities other than the initial clean coal facility and re-powered and retrofitted coal power plants previously owned by Illinois utilities which qualify as clean coal facilities. ~~Based upon its review of the law and the information provided, it is not clear to the Commission that the facility proposed by Sargas qualifies as a clean coal facility under Illinois law.~~

In fact, the IPA Act's Clean Coal Portfolio Standard provisions, combined with related provisions in the Public Utilities Act, do provide a general mechanism to the IPA for procuring electricity generated from clean coal facilities. Section 1-75(d)(1) of the IPA Act requires that each annual procurement plan "shall include clean coal." In Docket 12-0544, the Commission approved a procurement plan that contained a sourcing agreement for the FutureGen 2.0 Project, which was scheduled to begin operations in 2017, the final year of that plan's planning horizon. The current 5-year planning horizon contains no clean coal project or procurement. The IPA Act also includes a legislative directive that 25% of the electricity generated in the State of Illinois come from clean coal facilities by January 1, 2015, which will be barely 10 years from the date on which this procurement plan is approved by the Commission.

Considering that owners of at least one potentially eligible clean coal facility have approached the IPA, and in light of the IPA Act's requirement to include clean coal in every procurement plan and its directive to source 25% of electricity in Illinois from clean coal facilities by January 1, 2025, the Commission directs the IPA to host a competitive clean coal procurement for up to 100 MW of nameplate capacity during the spring of 2015. To be eligible to participate in the clean coal procurement, bidders must own or operate a clean coal facility, as defined by Section 1-10 of the IPA Act, to be constructed and on line during the current five-year planning period. Any winning bidder or bidders must meet clean coal benchmarks and must not cause the clean coal portfolio standard's rate cap requiring a maximum 2.015% average net increase to ratepayers to be exceeded.

~~It is true that Illinois court often defer to the expertise of administrative agencies. In this case, the Commission is not convinced that a proposal of the type presented by Sargas was~~

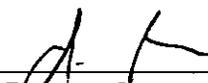
~~contemplated by the Illinois General Assembly or is in the public interest. As a result, the Commission will not include a competitive clean coal procurement in the pending Procurement Plan.~~

## Conclusion

For the foregoing reasons, Sargas, Inc. respectfully requests that the Commission reject the terms of the Proposed Order consistent with the position set forth herein and approve the IPA's Procurement Plan with the revisions as outlined above.

Dated this the 21<sup>st</sup> day of November, 2014.

Respectfully Submitted,  
Sargas, Inc.

  
\_\_\_\_\_  
J. Preston Owen

/s/ Paul D. Gandola  
Paul D. Gandola

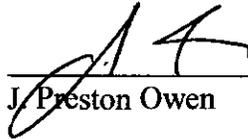
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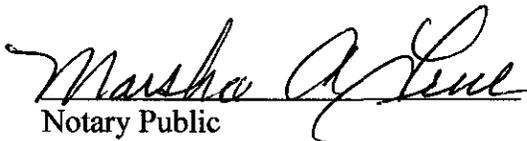
STATE OF ILLINOIS            )  
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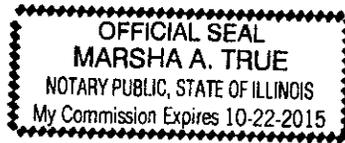
**VERIFICATION**

J. Preston Owen, being first duly sworn, on oath deposes and states that he is an attorney for Sargas, Inc., that he has read the foregoing Brief on Exceptions of Sargas, Inc. to the Proposed Order of the Administrative Law Judge Relating to the Illinois Power Agency's Procurement Plan, that he knows of the contents thereof, and that the same is true to the best of his knowledge, information and belief.

  
\_\_\_\_\_  
J. Preston Owen

Subscribed and sworn to me  
this the 21<sup>st</sup> day of November, 2014.

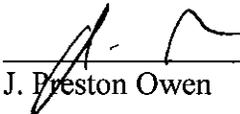
  
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Notary Public



My Commission Expires: 10/22/15

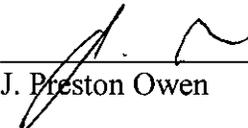
**NOTICE OF FILING**

On November 21<sup>st</sup>, 2014, I caused to be filed with the Chief Clerk of the Illinois Commerce Commission, the Brief on Exceptions of Sargas, Inc. to the Proposed Order of the Administrative Law Judge Relating to the Illinois Power Agency's Procurement Plan in this proceeding.

  
\_\_\_\_\_  
J. Preston Owen

**CERTIFICATE OF SERVICE**

I, J. Preston Owen, certify that I caused to be served copies of the foregoing Brief on Exceptions of Sargas, Inc. to the Proposed Order of the Administrative Law Judge Relating to the Illinois Power Agency's Procurement Plan upon the parties on the service list maintained on the Illinois Commerce Commission's e-docket system for the instant docket via electronic delivery on November 21<sup>st</sup>, 2014.

  
\_\_\_\_\_  
J. Preston Owen