STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Power Agency	)	
	)	ICC Docket No. 15-0541
Petition for Approval of the 2016 IPA	)	
Procurement Plan Pursuant to Section 16-	)	
111.5(d)(4) of the Public Utilities Act	)	

VERIFIED RESPONSE TO OBJECTIONS
ON BEHALF OF THE ILLINOIS POWER AGENCY

The Illinois Power Agency ("IPA" or "Agency"), by and through its attorney, respectfully submits its Verified Response to Parties' Objections. These Objections relate to the 2016 Procurement Plan ("2016 Plan") submitted by the Illinois Power Agency for Illinois Commerce Commission ("ICC" or "Commission") approval on September 28, 2015, as provided for in Section 16-111.5(d)(3) of the Public Utilities Act ("PUA"). (See 220 ILCS 5/16-111.5(d)).

I.

INTRODUCTION

The IPA's 2016 Plan is the eighth annual plan that the Agency has submitted for Commission approval. This ongoing annual plan development, submission, and approval process has resulted in significant refinements to the Agency's power procurement approach. Notably, and perhaps as a result of that near-decade of continuing improvement, no substantial objections to the 2016 Plan relate to the IPA's core mission: the planned procurement strategy for "standard wholesale products" (such as energy and capacity) to meet the load requirements of eligible retail customers of the participating utilities. Instead, contested issues generally concern renewable energy resource procurement obligations (See 20 ILCS 3855/1-75(c)) and incremental energy efficiency programs (See 220 ILCS 5/16-111.5B). While these topics are important, they sit on the margin of the primary purpose for which the IPA was created and required to prepare an annual procurement plan. Stated differently, the IPA acknowledges and appreciates that the

vast majority of recommendations in its 2016 Plan face no objections from intervening parties. The IPA believes that this may be seen as the validation of a refined, successful, collaboratively-developed procurement approach.

Six parties filed objections to the 2016 Plan: the Staff of the Illinois Commerce Commission ("Staff"); Commonwealth Edison ("ComEd"); Ameren Illinois Company ("AIC" or "Ameren"); MidAmerican Energy Company ("MEC" or "MidAmerican"); the Environmental Law & Policy Center ("ELPC"); and a coalition of two renewable energy suppliers ("RS" or "Renewable Suppliers"). Objections received address the following topics: (1) incremental energy efficiency programs under Section 16-111.5B of the Public Utilities Act "PUA"); (2) the procurement strategy for renewable energy resources (including the potential curtailment of existing long-term agreements); and (3) miscellaneous edits and technical corrections.

The IPA genuinely appreciates each party's feedback and attempts to improve the 2016 Plan. In preparing the Agency's Response, careful analysis and consideration was given to the arguments contained in parties' Objections. Each category of Objections is addressed below in the topic order set forth above. To the extent that not all objections or comments are addressed herein, the failure of the IPA to address a particular argument should not be construed as agreement or acquiescence.

II.

DISCUSSION

A. INCREMENTAL ENERGY EFFICIENCY PROGRAMS (SECTION 7.1)

Section 16-111.5B of the Public Utilities Act (220 ILCS 5/16-111.5B) requires that the utilities provide the IPA with "an assessment of cost-effective energy efficiency programs or measures that could be included in the procurement plan" and that such an assessment include

the "[i]dentification of new or expanded cost-effective energy efficiency programs or measures that are incremental to those included in energy efficiency and demand-response plans approved by the Commission pursuant to Section 8-103 of this Act…" (220 ILCS 5/16-111.5B(a)(3)). After receipt of this submittal, the IPA is required "include . . . energy efficiency programs and measures it determines are cost-effective and the associated annual energy savings goal" in its annual procurement plan. (220 ILCS 5/16-111.5B(a)(4)). Lastly, in approving the IPA's annual procurement plan, "the Commission shall also approve the energy efficiency programs and measures included in the procurement plan, including the annual energy savings goal, if the Commission determines they fully capture the potential for all achievable cost-effective savings, to the extent practicable, and otherwise satisfy the requirements of Section 8-103 of this Act." (220 ILCS 5/16-111.5B(a)(5)).

The 2016 Plan is the fourth Plan to include programs under Section 16-111.5B's provisions. As the provisions themselves are somewhat limited and vague, the docketed proceedings approving prior Plans have witnessed parties raise and contest numerous issues related to the implementation of this process. While many issues have been resolved by the Commission, others have been moved on to workshops to allow stakeholders the opportunity to discuss and to attempt to resolve issues for use in subsequent plan proceedings. As demonstrated by several of the Objections to the 2016 Plan, open issues remain about the implementation of Section 16-111.5B, but overall, the process has improved each year and the core goal of Section 16-111.5B to expand the availability of cost-effective energy efficiency programs to the full range of potentially eligible retail customers has been successful.

1) Cost of Supply (Section 7.1.5.3)

Ameren now argues that two programs which pass the Total Resource Cost ("TRC") test should be excluded "because those programs would cost customers more than simply procuring supply at the prevailing cost." (AIC Objections at 13). The IPA disagrees, and believes that this unprecedented new approach should be rejected.

Through this proceeding, the Commission is required to "approve the energy efficiency programs and measures included in the procurement plan, including the annual energy savings goal, if the Commission determines they fully capture the potential for all achievable cost-effective savings, to the extent practicable, and otherwise satisfy the requirements of Section 8-103 of this Act." (220 ILCS 5/16-111.5(a)(5)) (emphasis added). Illinois law requires that whether a program is "cost-effective" be determined through application of the total resource cost test. (220 ILCS 5/16-111.5B(b)). Ignoring TRC results for the use of a distinct test not authorized by statute would ignore established stakeholder consensus, years of Commission practice, and existing, understood interpretation of Section 16-111.5B.

While Section 16-111.5B(a)(3)(E) does require the utilities to include an "analysis of how the cost of procuring additional cost-effective energy efficiency measures compares over the life of the measures to the prevailing cost of comparable supply," a) this requirement may well apply to the full portfolio of additional measures and not to the evaluation of any individual measure, and b) this requirement does not create independent grounds for the exclusion of otherwise cost-effective programs in an IPA Plan. Indeed, in the preceding statutory subsection, the utilities are required to provide "[a]nalysis showing that the new or expanded cost-effective energy efficiency programs or measures would lead to a reduction in the overall cost of electric service." (220 ILCS 5/16-111.5B(a)(3)(D)). This provision has been understood to refer to the

Utility Cost Test, or "UCT." Contrary to Staff's assertion that each program is required to pass the UCT (Staff Comments at 9), UCT results have been designated as informational only in prior procurement plans. (See, e.g., 2016 Plan at 99, 2013; 2015 Plan at 76, 80; 2014 Plan at 87, 89). This requirement was deemed informational due to the clear intent demonstrated through Public Act 97-0824, which specifically removed that requirement from subsection (b) of Section 16-111.5B—where it would serve as an operative limiting bar on program inclusion—and instead made it part of the purely informational disclosures referenced in Section 16-11.5B(a)(3).[1]

In fact, in all prior IPA procurement plan proceedings, the Commission has conditioned approval of programs on the basis of whether such programs were submitted consistent with the RFP's requirements, were not deemed duplicative of existing programs, and whether such programs were cost-effective through application of the TRC. Both Staff and AIC admit that their suggested approach is a clear departure from exiting practice, and that they are now asking the Commission to offer a new interpretation of a law four years into its operation. (AIC Objections at 15; Staff Objections at 4). But based on prior Commission Orders, it would be highly inappropriate to adopt such a departure through an IPA Plan approval proceeding.

In Docket No. 14-0588, the Commission faced arguments from the Natural Resources Defense Council and the Office of the Attorney General seeking adjustments to the cost and benefit inputs to the total resource cost test. In response to those arguments, and acknowledging even that it had seen such arguments in prior dockets and was "intrigued" by the supporting logic, the Commission determined that "a significant problem with procurement proceedings is the expedited schedule combined with a relatively large number of contested issues and parties" that "makes it difficult for the Commission to deal with complex economic issues." (Docket No. 14-0588, Final Order dated December 17, 2014 at 224). As a result, the Commission held that

[1] For further discussion, see the 2013 Plan at 63.

"procurement proceedings are not the ideal forum for considering complex economic issues" and directed parties to attempt reaching consensus through a collaborative workshop process.

In the present proceeding, Ameren is asking the Commission to approve not merely adjustments to inputs, but to approve an entirely new test. Unlike the TRC issues raised in Docket No. 14-0588, there has been no vetting of this issue in prior proceedings, and little if any prior review of this new test by other key stakeholders (some of which may not be participating in this proceeding). In fact, Ameren's initial submission to the IPA simply contained a declaratory statement that two programs failed their cost of supply test with no substantiating information. It was only after further inquiry and a formal request that the IPA was able to review how this new "cost of supply" filter was applied. If known adjustments to inputs are too complex for a 90-day Commission proceeding, then clearly the introduction of a here-to-fore unseen and unvetted test is inappropriate for approval in this docket.

Ameren's suggested approach is also deeply flawed as a matter of policy. Ameren's cited "cost of supply" test does not include transmission and distribution costs, despite such costs clearly being avoided by the adoption of energy efficiency measures. Further, the "cost of supply" assumes a uniform cost for all customers based on the cost to eligible retail customers, while Section 16-111.5B programs are available to "all retail customers whose electric service has not been declared competitive under Section 16-113 of this Act and who are eligible to purchase power and energy from the utility under fixed-price bundled service tariffs, regardless of whether such customers actually do purchase such power and energy from the utility." (220 ILCS5/16-111.5B(a)(3)(C)). Stated differently, under this methodology, customers of alternative retail electric suppliers who may have higher supply costs are treated with a cost of supply suited only to those customers taking service from the utility.

Left arguing for an approach that plainly contradicts the law, in unsupported as a matter of policy, and is unfit for adoption in an expedited proceeding, Ameren instead relies on pointing out the increase over time of the total cost of energy efficiency programs approved pursuant to Section 16-111.5B. To be clear, the costs described by Ameren in Objections are for the entire portfolio of programs, not the specific programs addressed through Ameren's objection, and this focus on the entire portfolio inappropriately magnifies the extent of the issue in an attempt to change the subject. The clear intent of Section 16-111.5B was to expand energy efficiency while ensuring that such expansion is cost-effective. Ameren has failed to offer a supportable justification for why the Commission should deviate from that very clear intent and adopt an unsubstantiated new direction.

Staff also objects to the IPA's determination to not accept Ameren's request to exclude programs that Ameren asserts exceed the cost of supply. (Staff Objections at 4-6). The IPA is confused by the rationale presented as the basis for Staff's objection. Initially Staff "agrees with the IPA that Ameren's analysis of whether particular programs' costs exceed the 'cost of the supply' does not comport with the consensus, reached in prior years, that Section 111.5B(a)(3)(E) of the PUA can be interpreted as the total resource cost ('TRC') test." (Staff Objections at 4). But then Staff chooses to ignore the statutory provisions of Section 16-111.5B and its established interpretation to focus instead on cost impacts to ratepayers without any corresponding discussion of benefits.

While the IPA recognizes that expanding energy efficiency programs can have a bill impact for customers, inherent in the statutorily mandated TRC screening process is a required determination that <u>expected benefits exceed those costs</u>. Unlike Section 8-103 of the PUA, Section 16-111.5B does not contain a rate impact cap allowing for a strict limitation of costs.

Instead, the law directs the Commission to include those programs necessary to "fully capture the potential for all achievable cost-effective savings, to the extent practicable"[2] in IPA procurement plans. (220 ILCS 16-111.5B(a)(5)) (emphasis added). It is cost-effectiveness—the balancing of costs against benefits—and not merely cost that is used to evaluate a program's inclusion, and circumventing that approach as suggested by Ameren and Staff would be plainly inconsistent with the balance carefully struck by Illinois law and previously observed in each prior Commission docket.

2) Performance Risk (Section 7.1.6.4)

Staff also recommends excluding from the Plan the programs that ComEd identified as "performance risks." (Staff Objections at 6-13). To do so, Staff advocates adjusting the TRC to account for performance risk to lower the TRCs to the point where the programs would not be cost effective, and thus not included in the Plan. (Staff Objections at 12-13). This approach is extremely problematic and must be rejected.

As set forth above, the Commission has previously been reluctant to tweak TRC test inputs given the limitations of a 90-day procurement plan approval proceeding. As a result, arguments such as those presented last year for including demand reduction-induced price effects ("DRIPE") as a benefit (supported with published literature detailing its methodology and justifying its inclusion), while "intriguing," were still rejected. Staff's approach is far more problematic than that, however. (Docket No. 14-0588, Final Order dated December 17, 2014 at 224). Rather than proposing any salient mathematical adjustment to computed TRC levels, Staff proposes that any program labeled by ComEd as having a "performance risk" simply be considered to have failed the TRC. While the TRC is a mathematical calculation that requires

[2] Merriam-Webster defines "practicable" as "capable of being put into practice or of being done or accomplished." It is notable that the drafters of Section 16-111.5B did not include a more restrictive condition, and sought instead for cost-effective programs "capable" of "being done or accomplished" to be included in IPA plans.

quantifiable inputs in order to determine a numerical ratio, Staff offers no supporting analysis for why a program's costs suddenly exceed benefits, or how the magnitude of any given program's specific performance risk has changed the test result. Instead, Staff ignores those quantifiable inputs in favor of a bare conclusory statement that such programs should not have been included because they are "not cost-effective once reasonable TRC input assumptions are used." (Staff Objections at 12). What those "reasonable TRC input adjustments" actually are, however, is simply left to our imagination.

Even more problematic is Staff's logic that cost-effectiveness is merely the "minimum requirement in deciding whether the programs or measures should be approved." (Staff Objections at 9). Contrary to Staff's statement, the law requires that approved IPA procurement plans "fully capture the potential for <u>all</u> achievable cost-effective savings, to the extent practicable," and not only certain programs that are both cost-effective and otherwise attractive to Staff or others. (220 ILCS 5/16-111.5(a)(5) (emphasis added)). If cost-effective programs are arbitrarily cut because they have failed to meet Staff or some other stakeholder's subjective determinations, as Staff suggests, "all achievable cost-effective savings" will clearly not be "fully capture[d]." Nowhere in objections does Staff explain how removing programs quantitatively demonstrated to be cost-effective based on a new, soft qualitative designation would allow the Commission to meet this statutory directive. Nor does Staff explain how this new qualitative designation could be consistently and fairly applied going forward. Had the drafters of Section 16-111.5B sought to allow such criteria to be used, the directives present in those provisions would have been framed very differently.

ComEd does not object to the inclusion of these programs in the 2016 Plan, but cites a dispute that has arisen in Docket No. 14-0567 related to a Staff proposal to disallow as

imprudent costs incurred by ComEd for an earlier Section 16-111.5B program where the vendor unexpectedly and unfortunately went bankrupt and was thus unable to implement a Commission-approved program. (ComEd Objections at 5-8). ComEd suggests that should Staff's proposal in that Docket be adopted, it would render it impossible to pay vendors until after programs have not only been implemented, but also evaluated (a delay that could take several years). The IPA concurs with ComEd that this would have a chilling effect on third-party energy efficiency programs in Illinois and would badly frustrate the statutory requirement that IPA procurement plans "fully capture the potential for all achievable cost-effective savings."

While in the world of regulatory theory it would be nice to insulate ratepayers from any and all risks, some businesses will inevitably fail, and pay for performance contracts are a well-established, reasonable, and pragmatic way to minimize ratepayer exposure to performance risk. Instead of throwing out these programs as advocated by Staff, the IPA believes that the approval of programs by the Commission in this proceeding should provide participating utilities with firm confidence to move forward in contracting with the bidders of the selected programs. Through this proceeding, the Commission may wish to provide clarity on the extent to which approval of programs should inherently be considered approval of prudent expenditures <u>if</u> the resulting contracts contain appropriate pay for performance provisions which have generally been demonstrated to safeguard ratepayers from performance risk. Approved programs have the demonstrated potential to create savings and provide benefits exceeding their costs, and that potential that should not be unreasonably be withheld from customers.

3) Adjustment to AIC's Administrative Costs (Section 7.1.5.2)

Ameren presents a series of lengthy, confusing arguments related to the IPA's proposed adjustment to its TRC administrative adder, many of which require clarification. (AIC

Objections at 9-13). First and most importantly, contrary to statements made by Ameren in its Objections, the resolution of this issue has no impact on what costs may actually be incurred by the utilities going forward or whether such costs are deemed reasonable or recoverable. The determination of this administrative cost issue involves no "slashing" of "funds" or "cutting" of AIC's "administrative budget" as Ameren falsely contends (AIC Objections at 11); it is solely a determination about what administrative "costs" serve as inputs in a total resource cost test for determining whether a proposed program has a benefit-to-cost ratio of greater than 1.0. Statements about slashed budgets serve no purpose other than to further confuse and obscure already-complex issues.

Second, the only adjustment made to Ameren's administrative cost TRC adder was to remove a single category of non-administrative costs from that adder. In its submittal, Ameren provided several administrative costs as percentages (adding to 11.5%) and the cost of its potential study as a dollar amount ($1.5 million). Ameren then somehow arrived at an overall percentage of 13.58%.[3] Given present information, the IPA concurs with the reasonableness of including Ameren's EM&V, program implementation oversight, and education/awareness/planning/assessment/tracking costs, resulting in an administrative adder of 11.5%. However, the IPA strongly disagrees that any costs related to the development of Ameren's potential study should be considered as administrative costs for TRC purposes. Costs fit for inclusion in a TRC test include actual implementation costs, plus "costs to administer, delivery, and evaluate" programs. (20 ILCS 3855/1-10). The requirement that Ameren submit a new potential study every three years does not involve the implementation, administration, delivery, or evaluation of a program. It is a standalone requirement of Section 16-

[3] It is unclear how the 11.5% plus $1.5 million actually equates to 13.58%, as the latter cost is fixed and known while the others are program-dependent. The way in which Ameren detailed its administrative costs illustrates one of the inherent problems with Ameren approach, and the extent to which Ameren is mixing apples and oranges.

111.5B(a)(3)(A) that must be completed even if no programs are administered, and its magnitude does not grow with the inclusion of additional programs in the portfolio. The IPA's adjustment is not "arbitrary;" it is based on the simple logic that in calculating an individual energy efficiency program's administrative costs, those costs must actually have some nexus with program administration. As requiring that nexus is consistent with the Commission's directive that the utilities "track administrative costs by program in order to aid in future determinations of appropriate administrative cost assumptions to use in the TRC analysis" (Docket No. 14-0588, Final Order dated December 17. 2014 at 224) and with the definition provided in the law itself, Ameren's potential study costs—and only those costs—were rightfully removed.

Third, this adjustment was not motivated by an effort to create equivalency between Ameren and ComEd. The logic for this adjustment is explained above. Equivalency occurring as a result of that adjustment is merely a coincidence—or, more accurately, a function of the percentages disclosed by the utilities in submittals. The total administrative costs that ComEd designated by percentage were 11.5%. The total administrative costs Ameren designated by percentage were 11.5%. Unlike ComEd, Ameren layered on an additional $1.5 million non-administrative cost related to the development of its potential study. As those costs are not for the administration of its energy efficiency programs, the IPA justifiably removed those costs, resulting in both administrative adders being 11.5%. As this adjustment is necessary to maintain consistency with the Commission's prior directive and the law,[4] Ameren's arguments must be rejected.

4) Calculation of the TRC for Programs Deemed "Duplicative" (Section 7.1.5.4)

[4] Because the IPA's adjustment is relatively minor, absent any additional TRC adjustments, the IPA's adjustment to Ameren's administrative cost adder actually has no material impact on which programs are approved for the 2016 Plan. However, as administrative costs have been a contested issue and the subject of Commission-ordered workshops earlier this year, the IPA believes that this adjustment is necessary and must be maintained, and that a firm resolution of this issue by the Commission is appropriate.

Ameren argues that it need not conduct TRC analyses for programs it deems "duplicative." (AIC Objections at 4-8). The Commission-approved process for determining whether a proposed Section 16-111.5B program is "duplicative" of an existing program and thus should not be approved consists of the following steps:

> - First, the utilities receive and review the third party RFP results, and determine which bids are, in the utility's estimation, duplicative or competing. The utilities are under no obligation to identify any programs in this manner.
>
> - Next, in the annual July 15 assessment submitted to the IPA, the utility may exclude programs it has determined are duplicative or competing from the estimated savings calculation (and associated adjustments to the load forecast). However, in their submittals to the IPA, the utilities must: (1) describe the duplicative or competing program; (2) explain why the utility believes it is competing or duplicative; and (3) provide the IPA with all of the underlying documents as it would for any other bid.
>
> - In preparing its annual procurement plan, the IPA independently reviews all of the bids submitted by the utilities and determine which bids the IPA believes are duplicative or competing. The IPA identifies all proposed programs to the Commission in its Procurement Plan filing, along with a recommendation on which, if any, programs should be excluded as duplicative or competing.
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> - After the Plan has been filed, the parties to the Procurement Plan approval litigation—including the IPA—may opine on whether a particular program is duplicative or competing, and the Commission will make the final determination. To the extent that a utility had previously determined that a program is duplicative or competing but the Commission disagrees, the utility will update the estimated energy savings and load forecast to reflect the readmission of the program.

(Docket No. 13-0546, Final Order dated December 18, 2013 at 149). The approach offered by Ameren could work if the utility's initial determination was final—but as outlined above, it is merely an initial designation, with the IPA next tasked with conducting an independent review. Likewise, the approach offered by Ameren could work if the IPA conducted its own TRC

analysis—but it does not; the IPA depends on the utilities for initial TRC screenings, with the IPA then testing assumptions and conducting sensitivity analyses based on utility submittals.[5]

Instead, the inherent problem with not conducting a TRC calculation for programs' deemed duplicative by the utilities is that the IPA and Commission are required to conduct an independent analysis and independently make a "duplicative" determination. Should the IPA or the Commission arrive at a different conclusion than the utilities as to whether a program is duplicative (something which will eventually occur through independent reviews), neither will have the information necessary for determining whether to include the program without having a TRC test result. Only by conducting the TRC calculation up front (as ComEd does) is this problem is avoided. As a result, TRC information is required for all programs being considered for inclusion, including those that the utility deems duplicative.

5) Prior Year Consensus Items (Section 7.1.3)

The inclusion of prior years' consensus items from Commission-ordered workshops in the IPA's 2016 Plan might appear awkward: if these items were previously agreed upon and approved by the Commission, why would they need to be approved once again, and approved specifically for prospective application? During the development process for the RFP for soliciting third party energy efficiency programs for the 2016 Plan, Ameren indicated to the IPA and Staff that it did not consider itself bound by prior years' Commission-approved consensus items, as such items were approved only in a prior plan proceeding. This approach risks rendering Commission approval of consensus language entirely superfluous, as consensus issues

[5] Whether the IPA should conduct its own TRC analysis was the topic of Commission-ordered workshops in 2014; in workshops, no party advocated for that approach. (See 2016 Plan at 88-89). Instead, as the utilities conduct TRC screenings for programs included under Section 8-103 of the PUA and because Section 16-111.5B requires that "'cost-effective' shall have the meaning set forth in subsection (a) of Section 8-103" for programs "incremental to those included in energy efficiency and demand-response plans approved by the Commission pursuant to Section 8-103," the utilities conduct initial TRC screenings for Section 16-111.5B programs in a manner consistent with the methodology utilized under Section 8-103.

may concern steps already having been taken for that year's Plan. Because Section 16-111.5B leaves many implementation details to open for interpretation, consensus around the law's implementation is essential to developing firm expectations for all stakeholders—hence the painstaking development of consensus items (and notably, there were also many issues for which consensus could not be reached). The IPA, with the assistance of Staff's comments on the draft Plan, thus compiled prior years' consensus items and has specifically requested that they a) be approved once again and b) be approved for prospective application.

Ameren now argues that 2013 consensus items have become "stale," and may be "contradictory" with later-approved consensus items. (AIC Objections at 3). At no point does Ameren indicate which items specifically are "stale" and how they are "contradictory;" instead, their Exhibit A simply recommends striking all such items around which stakeholders achieved consensus in 2013 as approved in the Docket No. 13-0546 proceeding. Given the determined efforts by stakeholders to reach consensus on open issues through Commission-ordered workshops (as well as in the Stakeholder Advisory Group), Ameren's unsubstantiated insistence on a wholesale dismissal of prior agreements is inconsistent with the collaborative spirit called for under a law which requires that utilities "consider input from the Agency and interested stakeholders." (220 ILCS 5/16-111.5B(3)). As Ameren has presented no salient rationale for rejecting the 2013 consensus items and has failed to even identified which items are problematic and why, and as rejecting consensus items would be disruptive to an otherwise successful collaborative process, this proposal should be rejected.

6) 2017 Plan Programs (Section 7.1.4)

Both ComEd and Ameren request that the IPA's discussion of incremental bids for the upcoming 2017 plan be revised to better reflect the Commission's Order in Docket No. 13-0546

regarding the consideration of incremental programs when a new 3-year Section 8-103 program cycle has not yet been approved by the Commission. (AIC Objections at 8-9; ComEd Objections at 3-5). While the IPA appreciates ComEd's suggestion that "stakeholders address this issue through the stakeholder advisory group," this would appear inconsistent with their concurrent statement that because "the Commission has already considered and ruled on this issue," the IPA's Plan must be revised. If the Commission fails to further address this issue in the present proceeding, there will be little for stakeholders to discuss. Expanded Section 8-103 programs would simply not be permissible as part of the 2017 Plan. Instead, the IPA has raised this issue for discussion in an attempt to forge a path forward that avoids what the Commission considered an "unfortunate situation" and better balances competing requirements that programs be "incremental" to those approved under Section 8-103, but also that the IPA's procurement plans "fully capture the potential for all achievable cost-effective savings." A more balanced approach could feature the Commission making clear to participating utilities and stakeholders that stipulations or conditional Commission approval of expanded programs (dependent on final rulings on the Section 8-103 portfolio) may be allowed for the 2017 Plan approval proceeding, and the IPA invites further feedback on this approach in reply comments.

The IPA also wishes to clarify that even if the Commission's Order in Docket No. 13-0546 continues to be controlling, the language quoted by ComEd addresses <u>only</u> the expansion of existing Section 8-103 programs. (See ComEd Objections at 4-5). In Docket No. 13-0546, the Commission did approve the inclusion of numerous third-party programs in the IPA's 2014 Plan (including multi-year contracts) even though the Section 8-103 plans had not yet been finalized. (See 2014 Plan at 87, 89). Also, while ComEd states that the Commission will enter its Order approving the next set of Section 8-103 plans "in early 2018" (ComEd Objections at 3,

4), the IPA believes this is a typo, and that Section 8-103 requires those plans to be filed by September 1, 2016 with an Order approving the new plans entered in early 2017.

A related issue raised by Ameren in Objections concerns multi-year contracts through the 2017 Plan RFP. (AIC Objections at 2-3). Contrary to Ameren's suggestion that "the RFP for the 2017 Plan . . . has not even been discussed or developed yet" (AIC Objections at 2), during Commission-mandated workshops concerning the IPA's Energy Efficiency as an Supply Resource ("EEAASR") alternative proposal from the 2015 Plan, the utilities indicated that the 2017 Plan RFP would be an appropriate time for multi-year contracts to once again be offered given how multi-year contracts at that point would coincide with the Section 8-103 planning cycle—just as they had been for the 2014 Plan RFP, three years prior. As concessions made by the Agency and other stakeholders during that workshop are now apparently being disregarded,[6] and as an effort to "fully capture the potential for all achievable cost-effective savings" as required by the PUA likely necessitates multi-year contracts, the IPA specifically requests that the Commission order the utilities to offer the option of contracts of at least 3 years in length as part of their Section 16-111.5B RFPs for the 2017 Plan. Given the statements in Ameren's Objections and its concurrent insistence on withdrawing other consensus commitments, there is simply no other way to ensure that this prior commitment will be observed.

7) DCEO Programs (Section 7.1.5.4)

Ameren suggests that the Commission not conditionally approve two programs which may be duplicative of DCEO programs. While the IPA shares Ameren's concern about not approving programs deemed "duplicative," the IPA believes this approach risks statutory non-

[6] In approving the IPA's 2015 Plan, the Commission required that "the duration of any such programs" be determined through the EEAASR workshop process. (Docket No. 14-0588, Final Order dated December 17, 2014 at 157). Nevertheless, and despite arguments by the IPA and other stakeholders that participation would be enhanced by longer contracts, all Section 16-111.5B contracts offered by the utilities for the 2016 Plan solicitation were for only one year in length.

compliance. Pursuant to Section 16-111.5B of the PUA, the Commission is required to "approve the energy efficiency programs and measures included in the procurement plan, including the annual energy savings goal, if the Commission determines they fully capture the potential for all achievable cost-effective savings, to the extent practicable, and otherwise satisfy the requirements of Section 8-103 of this Act." Only conditional approval allows for the satisfaction of these standards. If DCEO programs go unfunded and these "duplicative" programs are not conditionally approved, then the "programs and measures included in the procurement plan" will not "fully capture the potential for all achievable cost-effective savings," as achievable cost-effective savings through these two programs will not be realized. Alternatively, if DCEO does receive funding, these programs will not be funded (having only been conditionally approved) and there is no risk of operating "duplicative" programs. As only conditional approval ensures compliance with the law in either circumstance, Ameren's arguments should be rejected.

The IPA does appreciate that time and effort is required to proceed from merely having a bid to coming to contractual terms with a bidder prior to the start of implementation of a program. As a result, the IPA would not object to conditional approval having an end date under which this approval would become granted, and that Ameren would be instructed to move forward with making contractual arrangements with bidders only if DCEO funding is not clearly secured by the end of the window of time for rehearing of the Final Order approving this Plan.

B. RENEWABLE ENERGY RESOURCE PROCUREMENT (CHAPTER 8)

Aside from Staff, all parties filing objections offer some objection to the IPA's renewable energy resource procurement approach. Specific objections are addressed below.

1) Longer-term Contracts Via the Renewable Resources Budget

Section 1-75(c) of the IPA Act (20 ILCS 3855/1-75(c)) contains the state's Renewable Energy Portfolio Standard, often referred to as the "RPS." The Renewable Energy Portfolio Standard sets forth the obligations of the utilities for renewable energy resource procurement (conducted through IPA procurement processes). Under the definition found in Section 1-10 of the IPA Act, renewable energy resources may be either renewable energy credits ("RECs"), which constitute certificates representing the environmental attributes of electricity generated from renewable energy generation, or both RECs and the corresponding electricity itself (contracts for which are often called "bundled" contracts, as they require delivery of the "bundle" of the REC and corresponding energy).

Section 1-75(c)(1) of the IPA Act provides that an increasing portion of the load requirements of eligible retail customers (i.e., residential and small commercial customers taking supply service from the utility, and not from an alternative supplier) be met through the procurement of renewable energy resources. (See 20 ILCS 3855/1-75(c)(1)). For the upcoming 2016-2017 delivery year, that amount is 11.5%, and it increases by 1.5% for each delivery year thereafter until 2025. Section 1-75(c)(2)(e) also specifies the methodology for determining the maximum amount that may be spent on renewable energy resource procurement pursuant to this section: a 2.015% rate impact cap based upon the greater of 2007 or 2011 electric rates.

Because this section concerns only eligible retail customer load, both the renewable energy resource procurement targets (the actual quantity of renewable energy resources to be procured to satisfy the law's targets) and the budget available for such procurements (sometimes referred to as the renewable resources budget, or "RRB")[7] are impacted by customer switching

[7] Please note, however, that unlike the IPA-administered Renewable Energy Resources Fund (see 20 ILCS 3855/1-56), this constitutes a maximum spend allowance and is not made up of funds already collected from ratepayers.

between utility service and alternative supplier service. More customers taking supply from alternative suppliers, as happened when a wave of municipalities adopted municipal aggregation resolutions and entered into opt-out municipal aggregation contracts, reduces both the quantity of resources needed to be procured and the budget available for their procurement.[8]

This volatility, coupled with existing 20-year bundled agreements for energy and renewable energy credits (commonly known as the 2010 Long Term Power Purchase Agreements, or "LTPPAs") entered into pursuant to the 2010 IPA Procurement Plan, is highly influential on the IPA's proposed renewable energy resource procurement approach. In the previous three plan approval dockets, the IPA has sought pre-approval from the Commission for "curtailment" of the existing long-term agreements, meaning that the utilities' financial obligations and the suppliers' delivery obligations would be "curtailed" if that was necessary to maintain compliance with the statutorily mandated rate impact cap. At the peak of switching impacts from municipal aggregation, curtailment was required for long-term renewables contracts with ComEd, as the rate impact associated with renewable energy resource obligations was spread across too few customers (or, more accurately, too little load) in ComEd's service territory to meet existing contractual requirements. While the load forecasts submitted by the utilities for the 2016 Plan indicate that a curtailment event is unlikely, the "low" load forecast submitted by Ameren would require curtailment, and the future of customer switching in Illinois generally remains highly uncertain.

[8] For customers taking service from an alternative supplier, the supplier is responsible for making an alternative compliance payment for no less than 50% of its compliance obligation, with its payment rate determined by results from the procurement of renewable energy resources using the renewable resources budget. These alternative compliance payments are generally made in conjunction with a supplier's self-procurement of the remainder of its renewable energy resource obligation to meet compliance with state's renewable energy portfolio standard. Alternative compliance payments from suppliers are deposited into the IPA-administered Renewable Energy Resources Fund, or "RERF." (See 220 ILCS 5/16-111.5D; 20 ILCS 3855/1-56).

It is against this backdrop that the IPA continues to propose only one-year contracts to meet only the upcoming delivery year targets using the renewable energy resources budget.[9] Neither the IPA nor any other party knows whether future budgets may be sufficient to cover new multi-year contracts, something further complicated by the Renewable Suppliers' proposal that existing long-term agreements operate as senior to new agreements should curtailment be required. While the IPA appreciates the spirit of the proposals offered by ELPC and the Renewable Suppliers, layering any additional longer-term obligations atop existing long-term agreements that already risk being curtailed due to volatile and uncertain budgets would be highly unadvisable. Even if potential suppliers were willing to assume that heightened curtailment risk and participate in such a procurement event, risk premiums associated with those bids could frustrate the IPA's statutory duty to "ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at <u>the lowest total cost over time</u>, taking into account any benefits of price stability." (20 ILCS 3855/1-5(A)). Indeed, just last year, the Commission acknowledged that very risk:

> As the IPA correctly points out, it has competing statutory obligations to encourage the development of new solar facilities while assuring that it does so at a reasonable cost. Staff also correctly notes that there many ways in which government encourages the development of solar facilities. The Commission's primary concern with the ELPC and ISEA proposal is the lack of stability in the funding source for this particular procurement and therefore the ELPC and ISEA proposal to replace the one-year SREC procurement with a longer term DG REC procurement is rejected. The Commission concludes that the IPA's proposal for a one-year SREC procurement is clearly supported by the record and should be approved.

(Docket No. 14-0588, Final Order dated December 17, 2014 at 286). As nothing has changed in the law or energy markets to sufficiently mute potential future volatility, these concerns remain and longer-term contract proposals using the renewable resource budget should be rejected.

[9] For its distributed generation procurement, which by law requires contracts of at least 5 years in length (See 20 ILCS 3855/1-75(c)(1)), the IPA has eliminated this budget risk by proposing that, for ComEd and Ameren, only those dollars which have already been collected as alternative compliance payments from customers taking hourly electricity service be used.

In arguing for longer-term contracts from the renewable resource budget, ELPC makes several statements which require clarification. First, there is no "significant surplus of available funds" associated with the renewable resources budget, as ELPC claims. (ELPC Objections at 2). As explained above, neither the IPA nor ELPC (nor the Commission) knows future renewable energy resource budget levels, as those levels are dependent on the size eligible retail customer load—which, in past years, has proven to be highly volatile. This supposed "surplus" has not been collected; it is simply the projected maximum which could be available to be spent given current load forecasts. As in past years, it will change as the retail energy markets continue to evolve, and it should be treated as merely estimates for planning purposes.

Second, the IPA does not "currently project that it will fall significantly short" of future years' compliance targets. (ELPC Objections at 2). This statement, and related statements about a "shortfall" by ELPC and the Renewable Suppliers, are highly misleading. Tables included in the IPA's procurement plan simply show resources currently under contract relative to a future year's projected compliance goal. They say nothing of future IPA procurements stemming from future IPA procurement plans. The IPA is not projecting "falling short" of any targets; it is merely deferring decisions on how best to meet future years' targets to future years' plans, at which time it will have better information on available funding and procurement target amounts.

Lastly, ELPC's request that a better balance be struck between "the risk of budget volatility related to customer switching and the risk that could result from an overly conservative procurement strategy and missed statutory goals" is highly confusing. There has been no demonstration that IPA's proposed strategy for managing renewable resource budget volatility increases the likelihood that statutory goals will be missed. If anything, the IPA's strategy increases the likelihood that such goals are met, as decisions about how best to meet those goals

are made closer to the delivery year with better information about procurement targets and budgets. Alternatively, if the IPA were to overcommit to potentially expensive five-year contracts using significant projected sums of the renewable energy resources budget as ELPC suggests, future budgets may be entirely exhausted by these new obligations while resources under contract may not be sufficient to meet statutory targets, introducing new risks that renewable energy resource targets may not be met.

2) Curtailment of Existing Agreements (Section 8.2)

In 2012, faced with the prospect of a reduced Renewable Resources Budget due to customer switching and potential inability to cover the cost of existing long-term agreements consistent with the rate impact cap in Section 1-75(c)(2)(E), the IPA proposed the curtailment of existing long-term power purchase agreements as part of its 2013 Procurement Plan. In deciding the issue, the Commission held that 1) it "has authority over" the curtailment issue, 2) compliance with the statutory rate impact cap may necessitate the curtailment of existing agreements, and 3) decisions about whether a curtailment is required (and at what level) are best made through using an updated March load forecast—which, due to more recent information, better captures the actual impact of load reductions for the upcoming delivery year. (See Docket No. 12-0544, Final Order dated December 19, 2012 at 109-113). Consistent with that decision, subsequent IPA plans have expressly requested that even if a curtailment event appears unlikely based on the July load forecasts included with the IPA's procurement plan, the Commission should "pre-approve" curtailment of existing agreements with the final determination made based on the updated March load forecasts.[10]

[10] The use of more recent information via the March load forecast has proven to be beneficial: for instance, when the March 2013 load forecast from Ameren resulted in no need for a curtailment of Ameren's LTPPA's, this was in contrast to what had been expected during the litigation of the 2013 Plan.

In the present proceeding, the Renewable Suppliers make several proposals regarding this process. First, they propose that the Commission need not "pre-approve" curtailment of long-term power purchase agreements given current load forecasts for the upcoming delivery year. (RS Objections at 2-3). While the IPA agrees with the Renewable Suppliers that load changes significant enough to require a curtailment are unlikely, it is not an impossible scenario, as demonstrated by Ameren's "low" load forecast. Further, the Renewable Suppliers have identified no incremental cost that would accrue through this pre-approval; as counterparties to contracts at already-determined prices and quantities that contain known curtailment provisions, they do not stand to lose financially from speculation about the possibility of a curtailment event that would be required by law, and it is unclear how they could be economically harmed.

Second, the Renewable Suppliers offer two proposals through which they would assume a new role in the load forecast approval process, either through the ability to comment and/or through requiring their approval before a curtailment could be made. (RS Objections at 3-4). These changes appear designed to solve a yet-to-be-demonstrated problem, as changes to the existing load forecast and curtailment approval process are only necessary if the Commission believes that utilities' load forecasts are at risk of being manipulated so as to result in an unnecessary curtailment event.[11] As the load forecasts filed in this proceeding are uncontested, it seems "dubious" that the utilities are actively engaging in this type of manipulation.

Further, this concern also loses sight of the primary purpose of the March load forecast: updating the procurement volumes for the Spring block energy procurement. The calculations that determine if a curtailment is necessary merely flow from that purpose, and it is not in the

[11] And even then, the IPA has offered to buy curtailed RECs using the Renewable Energy Resources Fund. (See 2016 Plan at 101-102).

interest of the utilities or the IPA to procure incorrect volumes of energy to meet eligible retail customer load. As the Commission has previously recognized:

> In the 2013 procurement proceeding, the Commission observed that there have been few substantive disputes regarding the underlying load forecasts of AIC or ComEd. The Commission believes this is true primarily because load forecasting is complex, the utilities have extensive experience and expertise in the area of load forecasting and the utilities have no economic incentive to develop a biased load forecast. The Commission believes actual experience has proven these observations true and AIC and ComEd have performed quite well in developing load forecasts.

(Docket No. 13-0546, Final Order dated December 18, 2013 at 197).

Lastly, even if load forecasts were manipulated so as to make curtailment more likely, the existing safeguard of Staff, IPA, and Procurement Monitor approval is sufficient to prevent an unnecessary curtailment. Unlike the Renewable Suppliers, who are merely counterparties to renewable energy resource delivery contracts and have vested economic interests, each of these entities has an established statutory duty to ensure that statutory directives related to the procurement of both energy and renewable energy resources are met. While the IPA does appreciate that the utilities could have an interest in reducing their renewable resource obligations, there is simply no evidence that the proven process for updated load forecast approval and curtailment determination is insufficient to safeguard those interests.

3) The IPA's Distributed Generation Procurement Approach (Section 8.4)

ComEd suggests modifications to the IPA's DG procurement approach which would require that resulting contracts, as opposed to the bids themselves, be at least one megawatt in size. (ComEd Objections at 8). The relevant language of the IPA Act states as follows:

> In order to minimize the administrative burden on contracting entities, the Agency shall solicit the use of third-party organizations to aggregate distributed renewable energy into groups of no less than one megawatt in installed capacity. These third-party organizations shall administer contracts with individual distributed renewable energy generation device owners.

(20 ILCS 3855/1-75(c)(1)). The IPA believes that because the one megawatt threshold applies to the aggregation of renewable energy, it is intended to apply to the Agency's solicitation and bidding process, and that the reference to a one megawatt "bid" be maintained in the 2016 Plan.

As in Docket No. 14-0588, Ameren suggests that the IPA become the contractual counterparty with suppliers to the planned DG procurement, and not the utilities themselves. (AIC Objections at 22). As discussed extensively in Docket No. 14-0588, this is plainly inconsistent with state law. "[A]dministrative bodies . . .are creatures of statute and possess no general or common law powers. Any power or authority claimed by an administrative agency must find its source within the provisions of the statute by which the agency was created." (Vuagniaux v. Dept. of Professional Regulation, 208 Ill.2d 173, 187-188 (2003)). The Illinois Power Agency – like all agencies – only has those powers specifically granted to it by law, and it cannot simply assume new contractual obligations without corresponding authority which allows for it to enter into such obligations. Section 1-56(i) of the IPA Act, which enables the IPA to conduct the supplemental solar REC procurements and which Ameren would seek to expand through its approach, only allows the IPA to enter into contracts for up to a designated amount ($30 million) from a designated source (the Renewable Energy Resources Fund) for the purchase of a designated project (renewable energy credits from solar photovoltaic systems). (See 20 ILCS 3855/1-56(i)). Nothing found in Section 1-56(i) of the IPA Act, or elsewhere in the IPA Act or the PUA, empowers the IPA to enter into additional contracts as a counterparty using alternative compliance payments ("ACPs") previously collected from Ameren's real-time pricing customers, or to purchase additional renewable energy credits from any funding source other than the Renewable Energy Resources Fund.

Further, the requirements of Section 1-75(c) of the IPA Act, including the distributed generation subtargets, apply to the participating utilities themselves (who are then required to "retire all renewable energy credits used to comply" with those standards (20 ILCS 1-75(c)(4))), with the IPA acting as an independent agency developing procurement plans and conducting procurement events to ensure that compliance. More specifically, the very ACP funds in question are to be used for the "purchase of renewable energy resources to be procured by the electric utility." (20 ILCS 3855/1-75(c)(5)) (emphasis added). These are the roles carefully spelled out under the law for each entity, and having the IPA serve as the resulting contractual counterparty would plainly run afoul of those requirements.

4) 1-75(c) Technology-Specific Subtarget Procurements (Section 8.1)

Repeating a rejected argument from last year's plan approval docket, Ameren again questions the IPA's need to conduct a procurement to meet the technology-specific subtargets present in Section 1-75(c)(1) of the IPA Act. (AIC Objections at 20-22). The relevant portion of the IPA Act reads as follows:

> To the extent that it is available, at least 75% of the renewable energy resources used to meet these standards shall come from wind generation and, beginning on June 1, 2011, **at least** the following percentages of the renewable energy resources used to meet these standards **shall** come from photovoltaics on the following schedule: 0.5% by June 1, 2012, 1.5% by June 1, 2013; 3% by June 1, 2014; and 6% by June 1, 2015 and thereafter. Of the renewable energy resources procured pursuant to this Section, **at least** the following percentages **shall** come from distributed renewable energy generation devices: 0.5% by June 1, 2013, 0.75% by June 1, 2014, and 1% by June 1, 2015 and thereafter.

(20 ILCS 3855/1-75(c)(1)) (emphasis added). The law is clear: the renewable energy resource mix "shall" be achieved at "at least" a statutorily prescribed percentage. Assuming available funding, the IPA has a statutory obligation to meet enumerated targets for the procurement of renewable resources from photovoltaics and distributed generation—even if overall REC targets are being met. Consistent with last year's proposal approved by the Commission in Docket No. 14-0588, the IPA has proposed photovoltaics and distributed generation procurements to attain

compliance with these requirements. While the IPA appreciates that its proposed photovoltaics procurement involves costs for eligible retail customers, the balance between statutory renewables procurement obligations and rate impacts is defined by statute, and the proposed procurement would remain within rate impact cap mandated by the IPA Act. (See 20 ILCS 3855/1-75(c)(2)(E))

In arguing that such procurements are unnecessary, Ameren again references the IPA's 2013 Procurement Plan and the Commission's resulting Order. But those circumstances are simply not instructive; the IPA's 2013 Plan was developed in the midst of rapid customer switching to alternative retail electric suppliers through hundreds of municipalities statewide suddenly entering into new opt-out municipal aggregation agreements. This unprecedented rate of switching left a cloud of uncertainty over projected budgets, including whether the renewable resources budget would be sufficient to cover existing obligations. More instructive is the relative stability present for the IPA's 2015 Plan—and as it did last year in approving that Plan, the Commission should reject Ameren's argument that the plain language of the IPA Act can be ignored and statutory renewable energy resource subtargets need not be met.

5) MEC Renewable Resource Procurement Target (Chapter 8)

MidAmerican contends that its renewable energy resources procurement target should be based only on that portion of its eligible retail customer load for which the IPA is planning procurement. The IPA disagrees. Where two statutes are allegedly in conflict, an interpretation that allows both to stand is favored, if possible. (See McNamee v. Federated Equipment & Supply Co., 181 Ill.2d 415, 427 (1998)). The IPA believes that the two sections of law at issue – Section 16.111.5 of the PUA and Section 1-75(c)(1) of the IPA Act – may be read harmoniously under the IPA's reading of the law.

As MidAmerican indicates, a small multi-jurisdictional utility may elect to participate in the IPA's procurement process for only a portion of its Illinois load—as MidAmerican has done. But upon that election, whether for all or a portion of its load, MidAmerican becomes a participating utility subject to the requirements of Section 1-75 of the IPA Act:

> A small multi-jurisdictional electric utility that on December 31, 2005 served less than 100,000 customers in Illinois may elect to procure power and energy for all or a portion of its eligible Illinois retail customers in accordance with the applicable provisions set forth in this Section and Section 1-75 of the Illinois Power Agency Act.

(220 ILCS 5/16-111.5(a)). Upon that request being made, MidAmerican became governed by the "applicable provisions" of Section 1-75, subsection (c) of which provides in part:

> A minimum percentage of <u>each utility's total supply to serve the load of eligible retail customers</u>, as defined in Section 16-111.5(a) of the Public Utilities Act, procured for each of the following years shall be generated from cost-effective renewable energy resources: at least 2% by June 1, 2008; at least 4% by June 1, 2009; at least 5% by June 1, 2010; at least 6% by June 1, 2011; at least 7% by June 1, 2012; at least 8% by June 1, 2013; at least 9% by June 1, 2014; at least 10% by June 1, 2015; and increasing by at least 1.5% each year thereafter to at least 25% by June 1, 2025.

(20 ILCS 3855/1-75(c)(1)) (emphasis added). Section 16-111.5(a) of the PUA defines "eligible retail customers" as follows:

> those retail customers that purchase power and energy from the electric utility under fixed-price bundled service tariffs, other than those retail customers whose service is declared or deemed competitive under Section 16-113 and those other customer groups specified in this Section, including self-generating customers, customers electing hourly pricing, or those customers who are otherwise ineligible for fixed-price bundled tariff service.

Under the IPA's approach, this is very the universe of customers used to calculate the renewables procurement target. While one could argue that this creates a disconnect, as the renewables procurement target is based on a different universe of load than that for which the IPA is conducting block energy procurements (which may only be "a portion" of the above), a policy under which a participating utility must meet certain renewables requirements for all its eligible

retail customer load as a condition of participation in the IPA's procurement planning process may simply be a function of design. The two sections may not be inconsistent or in conflict; they may simply be understood to address different things.

Even if these two provisions could only be viewed as competing, the more specific language for calculating the renewables target found in Section 1-75(c)(1) should apply. Where one of two provisions is general and designed to apply to cases generally, and the other is particular and relates to only one subject, the particular provision should prevail. (See Bowes v. City of Chicago, 3 Ill.2d 175, 205 (1954)). The question is how MidAmerican's renewable resource procurement target should be calculated. While Section 16-111.5(a) contains general provisions around procurement planning process participation, Section 1-75(c) directly and specifically addresses how procurement targets are to be calculated: as a "minimum percentage of each utility's total supply to serve the load of eligible retail customers." (20 ILCS 3855/1-75(c)(1)) (emphasis added). As this is the more specific and direct language, it should be understood to govern the calculation of MEC's renewable resource procurement targets—consistent with the IPA and Staff's proposed approach.

6) The IPA's Use of the Renewable Energy Resources Fund (Section 8.5)

ELPC suggests that the Commission "should recommend that the IPA coordinate its use of RERF funds with the traditional procurement plan in order to provide greater transparency to the industry and stakeholders." (ELPC Objections at 5). As the IPA develops its plans for any use of the RERF, it will provide opportunities for stakeholders to provide input and comment on the most efficient and appropriate use of the Renewable Energy Resources Fund and potential coordination with procurements approved in this proceeding. However, as the Commission held in Docket No. 12-0544 and as ELPC itself acknowledges, "it is clear the Commission has no

authority over disbursements from the RERF collected on behalf of ARES customers." (Docket No. 12-0544, Final Order dated December 19, 2012 at 113). The IPA strongly believes that a Commission Order approving its Procurement Plan should concern only those matters over which the Commission has jurisdiction, and that it would be inappropriate for the Commission to offer recommendations on planned disbursements from that fund.

C. MISCELLANEOUS EDITS AND TECHNICAL CORRECTIONS

Both Ameren and ComEd suggest that the pre-approval of the March load forecast updates be subject to the consensus of the IPA, Staff, the Procurement Monitor, and the applicable utility (currently, consensus is only referenced should the load forecasts trigger a curtailment). (AIC Objections at 1-2; ComEd Objections at 3). The IPA is amenable to these suggestions and does not object to their adoption.

Ameren suggests striking the phrase "as a source of supply," as used in reference to sourcing agreements with the FutureGen 2.0 facility, from the 2016 Plan. (AIC Objections at 2). The IPA is amenable to this change and does not object to its adoption.

Staff recommends the deletion of a sentence from pp. 104-105 of the 2016 Plan concerning feedback being sought on the applicability of Section 16-111.5B of the PUA to MidAmerican. (Staff Objections at 14-15). This sentence appears to be inadvertently left in the filed plan from the draft plan, and the IPA supports its deletion

ComEd recommends changes to the manner in which the IPA's power procurement hedging strategy is displayed in tables, specifically around accounting for percentages already hedged via prior procurement events. (ComEd Objections at 2-3). The IPA agrees and supports these changes. ComEd also recommends a change to the savings total contained in Table 7-6 of the 2016 Plan (ComEd Objections at 8), and the IPA supports this change.

CONCLUSION

The IPA again thanks parties who filed Objections for advancing the discussion of its 2016 Plan and recommends that the Commission resolve Objections consistent with the IPA's positions articulated herein.

Dated: October 20, 2015

Respectfully submitted,

Illinois Power Agency

By:
__/s/ Brian P. Granahan____

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STATE OF ILLINOIS)
)
COUNTY OF COOK)

VERIFICATION

Anthony M. Star, being first duly sworn, on oath deposes and says that he is the Director for the Illinois Power Agency, that the above Verified Response to Objections on Behalf of the Illinois Power Agency has been prepared under his direction, he knows the contents thereof, and that the same is true to the best of his knowledge, information, and belief.

Anthony M. Star

Subscribed and sworn to me
This 20th day of October, 2015

"OFFICIAL SEAL"
THERESA MONTES
Notary Public, State of Illinois
My Commission Expires Nov. 27, 2016
Commission No. 777496

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Power Agency	)	
	)	ICC Docket No. 15-0541
Petition for Approval of the 2016 IPA	)	
Procurement Plan Pursuant to Section 16-	)	
111.5(d)(4) of the Public Utilities Act	)	

NOTICE OF FILING

Please take notice that on October 20, 2015, the undersigned, an attorney, caused the Verified Response to Objections on Behalf of the Illinois Power Agency to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission in the above-captioned proceeding:

October 20, 2015

/s/ Brian P. Granahan___
Brian P. Granahan

CERTIFICATE OF SERVICE

I, Brian P. Granahan, an attorney, certify that copies of the foregoing document(s) were served upon the parties on the Illinois Commerce Commission's service list as reflected on eDocket via electronic delivery from 160 N. LaSalle Street, Suite C-504, Chicago, Illinois 60601 on October 20, 2015.

/s/ Brian P. Granahan___
Brian P. Granahan