STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Power Agency	)	
	)	
	)	Docket No. 15-0541
Petition for Approval of Procurement Plan	)	

AMEREN ILLINOIS COMPANY'S VERIFIED RESPONSE TO COMMENTS AND OBJECTIONS ON THE ILLINOIS POWER AGENCY'S 2016 PROCUREMENT PLAN

The Illinois Power Agency ("IPA") filed a petition for approval of its 2016 Procurement Plan ("Plan") with the Illinois Commerce Commission ("Commission") on September 28, 2015. On October 5, 2015, various parties, including Ameren Illinois Company ("Ameren Illinois" or "AIC") filed comments and objections to that Plan. Ameren Illinois submits the following response comments to the comments and objections raised by several of the parties. These response comments are organized according to the party to which Ameren Illinois is responding, and according to the sections of the IPA Plan being addressed, at the second level. All abbreviations are explained and the issues are discussed in a manner consistent with the Administrative Law Judges' order of October 6, 2015.

I. RENEWABLES SUPPLIERS

A. Sections 1.2 and 8.1—REC Procurement Event during 2016-2017 to Purchase RECs Covering a Portion of the Electric Utilities' Renewable Resources Shortfalls for the 2017-2018 through 2020-2021 Delivery Years

Renewables Suppliers[1] recommend that the IPA conduct multiyear REC procurement event during 2016-2017 to address a portion of forecasted REC shortfalls for the future delivery periods of the planning years 2017 through 2020. Renewables Suppliers Comments at 5-6. For the following reasons, Ameren Illinois disagrees.

[1] Consisting of NextEra Energy Resources, LLC, and Invenergy LLC.

The Renewable Resource Budget ("RRB") for the planning horizon is determined based on language in the IPA Act, 20 ILCS 3855/1 *et seq*., and through a methodology approved by the Commission in prior Plans. One factor influencing the RRB is the forecast of eligible retail load (i.e., utility's fixed price load) associated with the July 2015 forecast. But history indicates, due to variability in customer switching, that circumstances surrounding the forecast can change dramatically in a short period of time. By way of example, it would take only an additional 11% of residential load leaving Ameren's fixed price tariff before any Long Term Power Purchase Agreements ("LTPPAs") would be curtailed in 2016/2017; any additional switching of small commercial load or street lighting load would increase the quantity of the curtailment or reduce the quantity of residential switching necessary for the curtailment. To illustrate the possibility that such a scenario could occur, Ameren Illinois has reviewed historical switching data which indicates that as much as 37% of residential load has switched to alternative suppliers within a one year period. Ameren Illinois understands that dramatic changes in switching have been largely due to municipal aggregation and that conventional wisdom is that the incremental impact of municipal aggregation has slowed. But the possibility remains that additional municipal aggregation and/or an increase in switching of individual fixed price customers could occur in the future. The takeaway is that the Illinois retail landscape in the Ameren Illinois territory remains robust and the threat of additional load migration is still a reality.

In addition, the Plan calls for energy hedging levels equal to 100% for 2016/2017, 50% for 2017/2018, 25% for 2018/2019, 8% for 2019/2020 and 8% for 2020/2021, whereas the July 2015 forecast illustrates that *existing* REC hedging levels are 133% for 2016/2017, 94% for 2017/2018, 59% for 2018/2019, 53% for 2019/2020 and 49% for 2020/2021. What is left unexplained by the Renewables Suppliers is *why* the IPA should be compelled to increase their

REC hedging levels when existing hedge levels are already substantially higher than what has been proposed for energy. The Plan makes clear that the energy hedging strategy is designed to accommodate considerable uncertainty in future load. And through this tempered approach to the forward hedging of energy, the IPA is attempting to strike an appropriate balance between protecting customers against future price increases, while also recognizing that uncertain load can create risks if hedges exceed actual load requirements and then prices subsequently decline. By contrast, the proposal put forth by the Renewables Suppliers seeks an aggressive hedging strategy for RECs which creates unnecessary risk.

Further, another multiyear REC procurement followed by increased customer switching creates additional uncertainties and concerns. First, it is unclear whether the multiyear REC procurement would have curtailment provisions similar to the LTPPAs. Assuming a curtailment was envisioned, it is unclear how the additional contracts would work in tandem with the provisions under the existing LTPPAs. Second, without curtailment provisions in the additional contracts proposed by the Renewables Suppliers, the curtailment risk of the existing LTPPAs could increase dramatically. Third, the success of Illinois retail competition leaves Ameren Illinois with only 15% to 20% of delivery service load taking supply from the fixed price tariff and given the possibility that load could decline further, *any* multiyear procurements should be met with a critical eye so as to minimize risk for customers or suppliers under existing LTPPAs.

In summary, Ameren Illinois strongly recommends that the Commission reject the Renewables Suppliers' proposal to conduct a multiyear procurement for RECs in 2016/2017. The uncertainty in future load combined with REC hedging levels that are already elevated would unnecessarily increase risk to customers or suppliers under existing LTPPAs.

B. Sections 1.4 and 8.2—March 2016 Load Forecast Updates

Renewables Suppliers recommend that the Plan be changed to provide that no LTPPA curtailments will be required for the 2016-2017 delivery year. Renewables Suppliers Comments at 2. Failing that, however, Renewables Suppliers propose that if an electric utility's March 2016 load forecast update indicates a need for LTPPA curtailments, then the Renewables Suppliers, other LTPPA suppliers, and other interested stakeholders should be allowed to review the load forecast updates and submit comments to the Commission, and the Commission will then make a final determination as to the need for LTPPA curtailments. *Id*. at 3. Renewables Suppliers oppose the prior practice of the Commission pre-approving LTPPA curtailments in a scenario where the March 2016 load forecasts indicate that curtailments are warranted and the IPA, Commission Staff, Procurement Monitor and the applicable utility are in consensus with the forecast. *Id*. at 2-3.

In support of their new-found position, Renewables Suppliers state that circumstances are different this year relative to the Commission-approved protocol in previous years because it would take significant changes in the utilities' load forecasts between July 2015 and March 2016 in order for the electric utilities' eligible retail customer load to fall to levels where LTPPA curtailments are necessary. The Renewables Suppliers' position raises concerns and should be rejected for three primary reasons.

First, while Ameren Illinois acknowledges that the base forecast provided in July 2015 does not predict a LTPPA curtailment for the 2016 plan year, the Renewables Suppliers fail to acknowledge that considerable switching uncertainty remains, as illustrated by the high and low forecast scenarios also provided in July 2015. Further, Ameren Illinois asserts that if actual switching increases throughout the fall and winter, it is conceivable that the March 2016 forecast

could warrant a curtailment of the LTPPAs for Ameren Illinois in the 2016 plan year and beyond. This uncertainty calls into question the viability of Renewables Suppliers' position.

Second, the March 2016 forecast update will determine the final quantities associated with the energy procurement (and SREC quantities if approved by the Commission) and the timetable for these procurements does not allow for the filing of forecast updates with the Commission, filing of comments from interested parties and a subsequent Commission ruling. The IPA has long recognized this timetable limitation and astutely sought Commission pre-approval of the March forecast updates coincident with the Commission approval of the Plan in December of each year.

Third, as in past years, Renewables Suppliers have a financial incentive in achieving higher forecasts through a vetting process, which in turn would reduce or eliminate the curtailment associated with the LTPPAs. The Plan proposes that the March 2016 forecast update be pre-approved by the Commission subject to the approval of the IPA, except under a scenario where curtailment of LTPPAs is necessary and then the Commission Staff, Procurement Monitor and the applicable utility would reach consensus with the IPA. As indicated in its Objection, Ameren Illinois supports that consensus should be reached among the IPA, Commission Staff, Procurement Monitor and the applicable utility *regardless* of whether curtailment is necessary. A relevant point left out by Renewables Suppliers is that the IPA, Commission Staff, Procurement Monitor and applicable utility have *no* financial interest in achieving a forecast bias and therefore these parties can remain objective during the review process.

Finally, a 2016 curtailment of the LTPPAs is a possibility for Ameren Illinois given that only a moderate amount of incremental switching would be necessary to trigger a curtailment, as evidenced by the example provided in the previous section. The Plan is therefore wise in

seeking pre-approval of a curtailment based on a proven methodology, as opposed to the untested proposal by the Renewables Suppliers, and Ameren Illinois urges the Commission to reject the proposal by the Renewables Suppliers.

For each of these reasons, Renewables Suppliers' proposal should be rejected.

II. ENVIRONMENTAL LAW POLICY CENTER ("ELPC")

A. Section 8—Additional Distributed Generation ("DG") REC Procurement Using RRB Funds

ELPC proposes to expand DG REC procurements in 2016 using the remaining available RRB and Alternative Compliance Funds ("ACP") collected from real time priced customers. ELPC Comments at 1-4. Using these dollars, ELPC proposes to expand the DG REC procurement through the 2020/2021 delivery year and procure 100% of the forecasted DG REC shortfall for this period. ELPC Comments at 4.

Because this hedging strategy proposes 100% hedging of the forecasted DG REC sub-target, one could argue that it is even more aggressive than the proposal put forth by the Renewables Suppliers. But regardless, the same arguments that support rejecting the Renewables Suppliers' proposal hold true for rejecting the ELPC proposal.

First, it cannot be overstated that uncertain switching translates into uncertain dollars associated with the RRB. Second, in the event the RRB is exceeded in the future, it is unclear how contracts would be curtailed or if remaining customers would be expected to absorb the cost and financial risk of pre-existing contracts. Third, the proposal to hedge 100% of DG sub-targets through 2020/2021 delivery year is extreme and in conflict with the IPA's tempered approach to energy where only 50% is proposed to be hedged for the 2017/2018 delivery year and 25% for the 2018/2019 delivery year. Finally, the DG REC procurement recently approved by the Commission resulted in only *one contract* awarded to Ameren Illinois and this contract

represents a small portion of the budget for the DG REC procurement. In addition to the hedging risk posed by the ELPC proposal, it is not clear why such an aggressive procurement and its associated administrative costs can be justified at a time when recent DG REC procurement results did not meet the budget and quantity goals. For all of these reasons, Ameren Illinois urges the Commission reject ELPC's proposal.

III. COMMONWEALTH EDISON

A. Section 8.4.1—DG REC Procurement Process

Commonwealth Edison Company ("ComEd") proposes limited revisions designed to clarify the meaning of certain terms or concepts. ComEd Comments at 8-9. ComEd recommends that a safeguard be added to avoid placing an undue burden on utilities associated with managing contracts involving prorated shares and no more than one contract between aggregators and utility may be below 1 megawatt because of proration. *Id*. Ameren Illinois supports ComEd's proposal and the reasons put forth for its approval.

IV. STAFF

A. Section 7.1.5.3—Programs Exceeding the Prevailing Cost of Comparable Supply.

In its comments and objections, Ameren Illinois recommended that the Commission decline approval of two programs identified as cost-effective in its submittal, consisting of an electric-only behavioral modification program and an agricultural energy efficiency program. *See* AIC Objections at 13. Ameren Illinois proposed excluding those two programs because they would cost customers more than simply procuring comparable supply at the prevailing cost. *Id*. Ameren Illinois acknowledged that the parties initially determined that the "prevailing cost of comparable supply" analysis required under Section 5/16-111.5B(a)(3)(E) of the Public Utilities Act (the "Act") would be considered complete if a program simply passed the Total Resource

Cost ("TRC") test. *Id*. at 15. But as understanding of the law and the IPA's procurement of energy efficiency evolved and progressed, Ameren Illinois now suggests that the cost-effectiveness test and the cost-of-supply comparison are different, distinct aspects of the Act requiring separate analysis. *Id*. at 15-16. Moreover, the Commission and stakeholders must be mindful of these costs in light of the significant impact on the customers paying for energy efficiency in Ameren Illinois' service territory which, for purposes of this docket, will be felt only by residential and small business ratepayers. *Id*. at 17-18. Thus, Ameren Illinois proposed that the Commission rely on its indisputable power to impose "practical limitations" on a Section 5/16-111.5B incremental energy efficiency procurement, *see* 220 ILCS 5/16-111.5B(a)(5), coupled with the statutory directive to consider a comparison to the cost of supply, to exclude the two programs in question. *Id*. at 13-18.

Staff agrees with Ameren Illinois' proposal. Staff Comments at 4-6. Notably, Staff either agrees with or does not dispute each element of Ameren Illinois's rationale, except that Staff maintains the "prevailing cost of comparable supply" language in Section 5/16-111.5B(a)(3)(E) refers to the TRC test, while Ameren Illinois believes that understanding must evolve and be updated to reflect the practical realities of the day. *Id*. at 4, 6. As set forth in Ameren Illinois' Initial Objections and Comments, a proper reading of Section 5/16-111.5B(a)(3)(E), guided by the canons of statutory construction, supports a finding that the section refers to an *additional* requirement. AIC Comments at 15-16. However, notwithstanding that distinction, the Commission's undeniable authority to put practical limits on energy efficiency procurement, *see* Staff Comments at 4-6, puts Staff and Ameren Illinois in agreement that an additional consideration does now exist. Accordingly, Ameren Illinois continues to urge the Commission to refrain from adopting the electric-only behavioral modification program and

an agricultural energy efficiency program as part of the 2016 Procurement Plan because the program costs exceed the prevailing cost of comparable supply.

B. Section 7.1.6.4—Performance Risk Programs

In its submittal, Commonwealth Edison Company ("ComEd") identified four otherwise cost-effective and non-duplicative programs that it considered to be "performance risks." ComEd did not propose excluding the programs, however, and the Plan includes them, apparently because the IPA was under the mistaken impression that it had no other choice. As explained in the IPA Plan:

> ComEd does not, however, recommend that such programs not be included in the IPA's Plan or not approved by the Commission. The IPA agrees. Section 16-111.5B requires the IPA to include incremental "energy efficiency programs and measures it determines are cost-effective." Under Section 16-111.5B, "the term 'cost-effective' shall have the meaning set forth in subsection (a) of Section 8-103 of this Act," meaning "that the measures satisfy the total resource cost test." *As each of these measures passes the total resource cost test, it is the obligation of the IPA to include them in this procurement plan*.

Plan at 103 (emphasis added). Staff has capably explained why the IPA is wrong and the Commission does have the authority to exclude the four programs at issue. Each and every point of Staff's argument need not be restated here, but Ameren Illinois generally supports Staff's conclusion that, whether or not the IPA is required to include all cost-effective programs in the Plan, it is not required to recommend all of them for approval. Staff Comments at 6-9. Nor is the Commission required to approve every program that is cost-effective. The Act undeniably provides the Commission the basis to set "practical" limits on the procurement of energy efficiency in the IPA Procurement Plan, *see* 220 ILCS 5/16-111.5B(a)(5), and Ameren Illinois supports such a finding by the Commission.

V. CONCLUSION

For the reasons set forth above, Ameren Illinois Company respectfully requests that the Commission adopt the positions and modifications set forth in its objections and comments, filed on October 5, 2015, as amended by this response.

Dated: October 20, 2015

Respectfully submitted,

The Ameren Illinois Company

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VERIFICATION

I Keith Martin, certify that: (i) I have read the attached Verified Response to Comments and Objections; (ii) I am familiar with the facts stated therein; and (iii) the facts stated therein are true and correct to the best of my knowledge, information and belief.

NAME

SUBSCRIBED and SWORN to before me this 20 day of October, 2015.

Notary Public

"OFFICIAL SEAL"
Holli D Willmert
Notary Public, State of Illinois
My Commission Expires 10/10/2016

My commission expires: 10/10/16

VERIFICATION

I R.L.M., certify that: (i) I have read the attached Verified Response to Comments and Objections; (ii) I am familiar with the facts stated therein; and (iii) the facts stated therein are true and correct to the best of my knowledge, information and belief.

Richard L. McCartney
NAME

Director Power Supply
Ameren Illinois Company

SUBSCRIBED and SWORN to before me this 20th day of October, 2015.

Debra K. Patterson
Notary Public

Debra K. Patterson - Notary Public
Notary Seal, State of
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Commission #12482292
My Commission Expires 10/31/2016

My commission expires: _____

CERTIFICATE OF SERVICE

I, Mark W. DeMonte, an attorney, certify that a copy of the foregoing Verified Response to Comments and Objections were filed on the Illinois Commerce Commission's e-docket and was served electronically to all parties of record in this docket on this 20th day of October, 2015.

*/s/ Mark W. DeMonte*_____
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