



## **WIND ON THE WIRES' REPLY TO RESPONSES TO OBJECTIONS**

NOW COMES Wind on the Wires, in its' reply to the responses to objections to the 2016 Electricity Procurement Plan filed by the Illinois Power Agency ("IPA"), Ameren Illinois Company ("AI") and Commonwealth Edison Company ("ComEd") that were filed on October 20<sup>th</sup> 2015. This reply is filed pursuant to the Notice of the Administrative Law Judge dated October 6, 2015.

### **I. REPLY**

#### **A. PROCESS FOR REVIEWING SPRING LOAD FORECASTS FOR CURTAILMENT**

##### **1. Renewable Energy Suppliers Should be Afforded Opportunity to Comment Upon or Participate in the Spring Load Forecast Determination**

In their Responses the IPA<sup>1</sup>, AI<sup>2</sup> and ComEd<sup>3</sup> oppose the Renewable Energy Suppliers proposal that the parties affected by curtailment of the long term Power Purchase Agreements be allowed to either provide comments on the load forecasts or to participate in the decision making process adopting the load forecast (See Objection of the Renewable Energy Suppliers Regarding the Illinois Power Agency's 2016 Procurement Plan, at 3-4 (October 5, 2015)). As a matter of administrative efficiency Wind on the Wires points out that it addressed this topic in its Response, supporting the

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<sup>1</sup> (Verified Response to Objections on Behalf of the Illinois Power Agency (hereafter referred to as "IPA Response") , at 24-25 (October 20, 2015))

<sup>2</sup> (Ameren Illinois Company's Verified Response to Comments and Objections on the Illinois Power Agency's 2016 Procurement Plan (hereafter referred to as "ComEd Response"), at 4-5 (October 20, 2015))

<sup>3</sup> (Commonwealth Edison Company's Verified Response to the Objections to the Procurement Plan of the Illinois Power Agency (hereafter referred to as "AI Response"), at 4-5 (October 20, 2015))

two alternatives proposed by the Renewable Energy Suppliers. Wind on the Wires will not reiterate those arguments, but simply summarize a fundamental point from its verified Response on this issue: decisions on load forecasts determine whether curtailment of the output stated in the Long term PPA occurs and that affects the contracting parties revenue stream, therefore, as new facts are allowed to be introduced in the decision making process (*i.e.*, the Spring load forecast) the affected parties have a right to defend their contractual rights to that revenue stream, and that can be accomplished by either granting them the ability to comment on the new facts or to participate in the decision making. (See Wind on the Wires Response to Objections, at 3-5 (October 28,2015)).

The IPA asserts that the need to have a voice on new facts is only if the “Commission believes the utilities’ load forecasts are at risk of being manipulated.” (IPA Response, at 24). The IPA also argues that the inclusion of Staff, IPA and the Procurement Monitor in the decision making process are sufficient to prevent unnecessary curtailment. (IPA Response, at 25). Inherent in the ICC’s Rules of Practice is the right to respond to new facts, such as these which would be presented after the record is marked heard and taken. (See 5 ILCS 100/10-25(b) *affording* parties the ability to respond and present evidence and argument). The ability to defend ones interests under Illinois Administrative Procedures is not contingent on whether the new evidence is valid or manipulated as argued by the IPA. For example, the adversely affected party may have new facts that demonstrate error. If the adversely affected party has no responsive facts then presumably the process moves as proposed by the IPA.

ComEd opposes the Renewable Energy Supplier's proposal by citing the Commission's order in docket no. 13-0546. (ComEd Response, at 4-5). In that order the Commission found it appropriate to allow a post-hearing review of a Spring load forecast because there was no bias among the decision makers. As stated above, the notion of decision maker bias is a separate consideration from whether an adversely affected party was given the ability to comment on new facts that may cause them to lose revenue, and one that is subsidiary to the granting of the right to provide responsive evidence.

AI argues that one reason the Renewable Energy Suppliers proposal should be rejected is that the Renewable Energy Suppliers have a financial incentive in achieving higher forecasts. (AI Response, at 5). A parties interest in an outcome is relevant in the determination as to whether they should be a party to the case and can be considered when weighing the evidence they provide -- not a reason for terminating their ability to defend their contractual rights.

Thus, the Commission should reject the counter arguments of IPA, ComEd and AI and grant the Renewable Energy Suppliers the ability to either comment on the utilities' Spring 2016 load forecasts or participate in the decision making, pursuant to their proposal.

## II. CONCLUSION

WHEREFORE, Wind on the Wires requests the Commission adopt the positions stated herein and in our Response, and accordingly modify and approve the IPA's Electricity Procurement Plan so it is consistent with the positions stated herein.

Respectfully submitted,

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Sean R. Brady  
Regional Policy Manager

Wind on the Wires  
P.O. Box 4072  
Wheaton, IL 60189

312.867.0609  
[sbrady@windonthewires.org](mailto:sbrady@windonthewires.org)

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