

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

ILLINOIS POWER AGENCY)	
)	
Petition for Approval of the 2016 IPA)	ICC Docket No. 15-0541
Procurement Plan pursuant to Section 16-)	
111.5(d)(4) of the Public Utilities Act)	

REPLIES OF THE ENVIRONMENTAL LAW AND POLICY CENTER

Pursuant to the Commission’s October 6, 2015 scheduling order, the Environmental Law & Policy Center (ELPC) respectfully submits its replies regarding the parties’ comments and objections to the Illinois Power Agency’s (IPA) 2016 Procurement Plan, which the IPA filed with the Illinois Commerce Commission (ICC) for consideration and approval on September 28, 2015. The reply comments below are divided into two main sections: renewable energy resource procurement and incremental energy efficiency programs.

I. RENEWABLE ENERGY RESOURCE PROCUREMENT

A. The IPA Should Expand and Accelerate the Procurement of Distributed Generation Resources.

The IPA has proposed a limited procurement of distributed generation (DG) resources using alternative compliance payments (ACPs) already collected from the utilities’ hourly customers. ELPC supports IPA’s use of the hourly ACP funds for this purpose. Under the broader renewable energy resources budget (RRB), however, the IPA continues to propose “only one-year contracts to meet only the upcoming delivery year targets.” (IPA Response at 21). ELPC’s position is that the IPA should expand the procurement of DG resources using the RRB in order to maximize the benefit of expiring federal tax credits for solar projects in 2016.

Several parties have criticized ELPC’s proposal to expand and accelerate the procurement of DG RECs, claiming that the risk of customer switching creates too much

uncertainty to support a multi-year DG REC procurement at this time. (See Ameren Response at 6-7; ComEd Response at 6-7). The IPA suggests that it would be “highly inadvisable” to expand the procurement of DG resources in light of the risk of volatile and uncertain future budgets. (IPA Response at 21). However, the Commission should acknowledge that there are risks on both sides of the issue. If the IPA is too conservative, then it will forego the opportunity to procure DG RECs in 2016 when federal tax credits are available, meaning that future procurements will need to procure more DG RECs at (likely) higher prices.

In its Objections, ELPC suggested that the IPA *consider* using the RRB along with ACP funds from hourly customers to meet the IPA’s full DG sub-target requirements through the 2020-2021 Delivery Year. (ELPC Objections at 4). However, ELPC does not intend to suggest that this is the only option. If meeting the full DG sub-target is not prudent or not possible, the IPA could consider other scaled-back proposals that would still enable more distributed solar procurement to occur. For example, the Renewables Suppliers recommended that the IPA conduct one or more procurement event(s) in the 2016-2017 Plan Year to procure RECs under short-term contracts in amounts that would not exceed a declining percentage of each electric utility’s currently forecasted available RRB funds for the 2017-2018 through 2020-2021 Delivery Years. (See Renewable Suppliers Response at 3). The Commission should carefully consider this proposal. However, as it stands, the IPA has proposed a maximally conservative strategy that fails to allocate *any* RRB resources towards distributed generation, despite the fact that approximately \$20 million or more is projected to be available under the RRB in each of the next five delivery years.¹

¹ See Tables 8-4, 8-5, and 8-6 at pp. 132-33 of the Plan.

Delivery Year	Available RPS Funds Ameren (\$)	Available RPS Funds ComEd (\$)	Available RPS Funds MidAmerican (\$)
2016-2017	2,213,620	14,048,651	2,477,311
2017-2018	3,255,883	16,916,581	2,486,717
2018-2019	4,721,183	17,524,528	2,496,201
2019-2020	4,769,585	17,687,604	2,507,235
2020-2021	5,015,585	18,101,144	2,518,768

The IPA correctly points out the following: that these budget projections are dependent on future customer switching trends and that an increased trend in municipal aggregation would reduce the amount of the RRB in future years. (IPA Response at 22). However, the IPA acknowledges that even under ComEd’s “low load forecast scenario,” there would still be sufficient resources available in the RRB to meet all existing contractual obligations. (IPA Plan at 132). ELPC is simply advocating for the IPA to find the correct balance. In ELPC’s view, this requires more emphasis on using the RRB to procure DG RECs in 2016 in an amount greater than zero. To the extent the Commission remains concerned about budget risks related to customer switching, the IPA could structure the DG procurement to provide for a one-time payment in 2016 for a future five-year stream of DG RECs. This would eliminate any budget risk related to future customer switching trends. (See ELPC Objections at 5).

In sum, the parties’ responses to ELPC’s recommendations for an expanded DG procurement have not addressed ELPC’s core point, which is that timing is critical to take advantage of federal tax credits that are due to expire in 2016. To the extent possible, the IPA should expand and accelerate the procurement of DG RECs in early 2016 while solar is effectively “on sale.” The IPA and the ICC should explore every possible opportunity to avoid leaving federal resources on the table when they could be used to bring down the overall cost of meeting the state’s RPS goals. ELPC continues to believe that its recommendation to expand the

IPA's procurement of distributed generation resources in early 2016 represents the best value for Illinois consumers.

B. The Commission Should Reject ComEd and Ameren's Attempt to Ignore the Act's Explicit Technology-Specific Subtargets.

As the IPA points out, Ameren and ComEd are attempting to again raise a rejected argument from last year's plan approval docket that ignores the mandatory nature of the IPA Act's explicit technology-specific subtargets. (See IPA Response at 27). ELPC agrees with the IPA that the Commission should reject Ameren and ComEd's argument that the plain language of the IPA Act can be ignored and statutory renewable energy resource subtargets need not be met. (Id. at 28).

Wind on the Wires and the Renewables Suppliers point out that to the extent available, the Act requires at least 75% of the renewable energy resources to come from wind, 6% from solar, and 1% from distributed generation. (20 ILCS 3855/1-75(c)(1)). ELPC agrees that the IPA's procurement strategy "must take into account the respective requirements for renewable energy resources from wind, solar and distributed generation in the statutory RPS." (Renewables Suppliers Response at 4). ELPC's recommendation to expand distributed generation procurement in 2016 need not come at the expense of other statutory goals. The IPA has ample discretion and flexibility to design a long-term procurement strategy that can meet its aggregate sub-target goals in the most prudent and cost-effective way. For the upcoming year, this should involve a procurement strategy that emphasizes the procurement of DG resources for the reasons discussed above.

C. The Commission Should Reject Ameren's Suggestion That the IPA Become the Contractual Counterparty for the DG Procurement.

ELPC agrees with the IPA's position that Ameren's proposal for the IPA to enter into DG contracts with suppliers as the contractual counterparty would violate state law. (IPA Response

at 26). As ELPC pointed out in its Response Comments, Ameren’s suggestion would also create serious practical difficulties for renewable energy suppliers, potentially jeopardizing the success of the IPA’s DG procurement. (ELPC Response at 4). The Commission should reject this suggestion.

II. INCREMENTAL ENERGY EFFICIENCY PROGRAMS

A. Cost of Supply

ELPC agrees with the IPA and opposes Ameren and Staff’s arguments to exclude programs for which Ameren argues that program costs exceed the cost of supply. (IPA Response at 4-8, AIC Objections at 13). While ELPC recognizes that Section 16-111.5B(a)(3)(E) requires 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,” ELPC understands that this analysis is for informational purposes only. Excluding cost effective efficiency programs from the IPA procurement based on this new cost of supply screen seems arbitrary, a departure from existing practice, and contrary to Illinois law, which directs the commission to approve the proposed efficiency programs if they “fully capture the potential for all achievable cost-effective savings” (220 ILCS 5/16-111.5(a)(5)).

The Illinois Power Agency Act defines the Total Resource Cost test, the standard for cost effectiveness screening of energy efficiency programs in Illinois, as:

the ratio of the net present value of the total benefits of the program to the net present value of the total costs as calculated over the lifetime of the measures. A total resource cost test compares the sum of avoided electric utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures, as well as other quantifiable societal benefits, including avoided natural gas utility costs, to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side program, to quantify the net savings obtained by substituting the demand-side program for supply resources. In calculating avoided

costs of power and energy that an electric utility would otherwise have had to acquire, reasonable estimates shall be included of financial costs likely to be imposed by future regulations and legislation on emissions of greenhouse gases.

(20 ILCS 3855/1-10). Ameren's proposal to exclude programs based on their costs versus a prevailing cost of supply does not meet this standard. Ameren's proposal only weighs costs against a single benefit, the avoided cost of supply, and excludes other benefits such as avoided transmission and distribution costs and other quantifiable societal benefits that are used in the TRC. Ameren's proposal to exclude programs based on this new cost screen should be rejected, and the Commission should continue to consider programs to be cost effective when the Total Resource Cost ratio is greater than 1.

B. Performance Risk

ELPC agrees with the IPA and opposes Staff's proposal to adjust the TRC of programs ComEd identified as "performance risks". (IPA Response at 8-10, Staff Objections at 12-13). The current RFP requirements, stakeholder and utility screening process, and pay-for-performance model of the IPA third party efficiency programs sufficiently insulate ratepayers from risk of these third-party programs underperforming. Staff's proposal to force "performance risk" programs to fail the TRC without quantifiable criteria is arbitrary, unfounded, and would introduce needless complications to a process that runs well.

C. Adjustment to AIC's Administrative Costs

ELPC agrees with the IPA's response to Ameren's objections to the adjustment to AIC's administrative costs. (IPA Response at 10-12). ELPC interprets the IPA's proposal as a determination of what costs should be included in the TRC calculation, not a proposal for Ameren to actually change its administrative budget. ELPC continues to believe that only the administrative costs assigned to a measure or program's TRC test should be the actual

administrative costs that were incurred for that measure or program. In the event that AIC cannot quantify those actual administrative costs, they should not be included in the TRC. ELPC agrees with the IPA that Ameren's potential study should not be included as an administrative cost for the third party efficiency programs. The potential study has no bearing on the administration or implementation of the third party programs, and its costs therefore should not be included in the TRC test for those programs.

D. Calculation of the TRC for Programs Deemed "Duplicative"

ELPC agrees with the IPA and urges the Commission to order the utilities to screen all programs being considered for inclusion, even ones the utility has deemed duplicative. (IPA Response at 12-14). There have been times during stakeholder review where parties did not initially reach consensus on whether a proposed program was duplicative. There will be times in the future where the IPA, the Commission, or stakeholders do not agree with the utility's finding that a proposed program is duplicative. In these instances, cost effectiveness test information will be necessary for determining whether to include a program in the IPA portfolio. Therefore, the utilities should screen all programs for cost effectiveness, including ones they designate "duplicative."

E. DCEO Programs

ELPC agrees with the IPA and encourages the Commission to conditionally approve two programs that may be duplicative of DCEO programs. (IPA Response at 17-18). ELPC thinks it is important that the IPA procure all cost effective energy efficiency as long as duplicative programs do not impede the ability of the 8-103 programs to meet their goals. In the event that DCEO programs go unfunded, the IPA third party procurement would provide a way to achieve

non-duplicative cost-effective energy efficiency. ELPC supports IPA's proposal for a time-limited conditional approval of the two programs in question.

III. CONCLUSION

The IPA has done an admirable job balancing a significant number of statutory requirements and obligations in the development of this year's Procurement Plan. However, ELPC respectfully believes that an increased emphasis on DG resources in this year's procurement plan, while federal tax credits remain available, would further the IPA Act's requirement to promote "adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest cost over time, taking into account any benefits of price stability." (20 ILCS 3855/1-5). ELPC respectfully requests that the Commission approve the IPA's 2016 Procurement Plan subject to this recommendation, as described above and in previous filings in this docket.

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Respectfully submitted,



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