

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

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<b>ILLINOIS POWER AGENCY</b>	:	
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<b>Petition for Approval of the 2015 IPA Procurement Plan pursuant to Section 16-111.5(d)(4) of the Public Utilities Act</b>	:	<b>Docket No. 16-0453</b>
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**STAFF OF THE ILLINOIS COMMERCE COMMISSION  
OBJECTIONS TO THE ILLINOIS POWER AGENCY'S  
2017 PROCUREMENT PLAN**

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**STAFF OF THE ILLINOIS COMMERCE COMMISSION  
OBJECTIONS TO THE ILLINOIS POWER AGENCY’S  
2017 PROCUREMENT PLAN**

Staff of the Illinois Commerce Commission (“Staff”), by and through its counsel, respectfully submits these objections to the Illinois Power Agency’s (“IPA”) 2017 Procurement Plan (“Plan” or “Proposed Plan”) and the IPA’s Petition for Approval of the 2017 Procurement Plan (“Petition”) filed on September 27, 2016 pursuant to Section 16-111.5 of the Illinois Public Utilities Act (“PUA”), 220 ILCS 5/16-111.5. Staff also submits the affidavits of Jennifer H. Morris, James Zolnierrek, and Richard J. Zuraski in support of facts and non-legal matters contained herein.

**I. PROCESS AND PROCEDURE FOR REVIEW OF THE IPA’S PLAN UNDER  
PUBLIC ACT 095-0481**

Section 16-111.5 of the PUA, adopted as part of Public Act 095-0481, sets forth various provisions relating to procurement of power and energy. 220 ILCS 5/16-111.5. Subsection (d) of Section 16-111.5 sets forth the process and procedure for the review and approval of IPA procurement plans, beginning in 2008. The statute states, among

other things, that: (1) “[w]ithin 5 days after the filing of a procurement plan, any person objecting to the plan shall file an objection with the Commission”; (2) “[w]ithin 10 days after the filing, the Commission shall determine whether a hearing is necessary”; and (3) the Commission must “enter its order confirming or modifying the procurement plan within 90 days after the filing of the procurement plan by the [IPA].” 220 ILCS 5/16-111.5(d)(3). Pursuant to these statutory guidelines, objections must be filed by October 3, 2016, the Commission must determine whether a hearing is necessary on or before October 13, 2016<sup>1</sup>. A final Commission order must be entered on or before December 27, 2016<sup>2</sup>.

Section 16-111.5 of the PUA further provides the standard by which the Commission must assess a Plan. The statute provides that “[t]he Commission shall approve a procurement plan, including the forecast used in the procurement plan, if the Commission determines that it will ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account the benefits of price stability.” 220 ILCS 5/16-111.5(d)(4).

Staff recommends that the Commission not hold hearings, but allow Staff and the other parties to address objections to the Plan by the filing of responses and replies. The statute contemplates hearings only if they are necessary. Parties have had the

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<sup>1</sup> With respect to the Commission making a determination of whether a hearing is necessary, it is Staff’s position that the determination being made “within 10 days after the filing”, is in reference to the filing of objections, not the Plan. The IPA takes the same position. (IPA Petition, 10.) The Commission from 2009 to 2015, made its determination as to whether there will be a hearing within ten days from the filing of the Plan, with the exception for 2012. In 2012, the Commission by ALJ ruling made the determination within eleven days from the filing of the Plan but well within ten days from the filing of objections. Staff would further note, that since 2012 the Commission determination of whether there will be a hearing has been made through a Chief Administrative Law Judge Ruling.

<sup>2</sup> Ninety days from September 27, 2016 is Monday December 26, 2016, which is a state holiday. Under the Commission’s Rules of Practice and by statute, Monday December 26<sup>th</sup> would be excluded in computing ninety days. The next business day is Tuesday December 27, 2016. 83 Ill. Admin. Code 200.80; 5 ILCS 70/1.11.

opportunity to comment on the IPA’s draft plan and have the opportunity to file objections to the Plan filed September 27, 2016. Any issues that exist can be efficiently and adequately addressed, as they have in the past, by the Staff and the parties filing verified objections, responses to objections and replies without the need for hearings. Assuming the Commission determines that no hearing is necessary, consistent with recent procurement docket schedules, Staff has no objection to the IPA’s proposed schedule (IPA Petition, 10) set forth below for 2016 indicated in bold<sup>3</sup> for the filing of verified responses, verified replies, an Administrative Law Judge’s Proposed Order (“ALJPO”), exceptions, and reply exceptions. The schedule for the prior three years procurements are also set forth below. The IPA’s proposed schedule is close to the prior year’s schedules.

	2016 Docket	Docket No. 15-0541	Docket No. 14-0588	Docket No. 13-0546
IPA Plan Filed	9/27	9/28	9/29	9/30
Objections	10/3	10/5	10/6	10/7
<b>Responses</b>	<b>10/21</b>	10/20	10/21	10/21
<b>Replies</b>	<b>10/31</b>	10/30	10/31	10/31
<b>ALJPO</b>	<b>11/14</b>	11/13	11/13	11/13
<b>BOE</b>	<b>11/21</b>	11/20	11/21	11/21
<b>RBOE</b>	<b>12/2</b>	12/1	12/1	12/2
<b>FINAL ORDER</b>	<b>12/14</b>	12/16	12/17	12/18
Drop Dead	12/27	12/28	12/28	12/30

<sup>3</sup> Historical schedule dates for the 2015, 2014 and 2013 dockets (Docket Nos. 15-0541, 14-0588 and 13-0546, respectively) are provided. Also provided, are the filing dates of the Plan, Objections and last date for Commission action (“Drop Dead”) in 2016, 2015, 2014 and 2013.

## II. COMMENTS AND OBJECTIONS TO THE PROCUREMENT PLAN

### A. 8.4 Doubling the number of distributed generation procurements is an expensive way to attract more bids; doubling the length of the delivery period from five to ten years may be more effective.

The Plan states:

The IPA has held two DG procurements to date. Neither procurement came close to achieving its target REC procurement volumes and each had only one winning bidder. In both procurements, additional entities beyond the winning bidder took part to varying degrees in every step of the bidding process, but challenges (including for example, assembling bids that would meet the requirements of the procurement and obtaining necessary letters of credit by the bid date) limited ultimate participation. As discussed below the IPA is proposing a number of changes to the DG procurement structure utilized for 2017 with the hope that these changes will increase the volume bid and procured. While the IPA is hopeful that these changes can increase participation and help facilitate satisfaction of the Section 1-75I(1) DG procurement targets, the Agency recognizes that there may be provisions of the law (such as the 1 MW minimum bid size requirement) that could prove to be insurmountable barriers to stronger participation absent legislative change.<sup>4</sup>

\* \* \*

For this Plan, the Agency's approach to procuring DG RECs consists of a two procurement events in a competitive bid process consistent with the requirements of Section 16-111.5 of the PUA and Section 1-75(c) of the IPA Act as was conducted in the 2015 and 2016 procurements.<sup>5</sup>

While it is conceivable that adding a second DG procurement in 2017 could increase the number of bids and aid the IPA in achieving the target number of RECs, it seems just as likely to spread lackluster interest among potential suppliers even thinner.

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<sup>4</sup> IPA Plan, 97.

<sup>5</sup> IPA Plan, 98.

It will certainly increase the already substantial administrative costs associated with DG procurement. The supplier fee for the most recent DG RFP (used to reimburse the agency for some of its administrative costs) was \$11.25 per REC.<sup>6</sup> While Staff is not opposed to the IPA's experiment of doubling the number of DG procurement events, Staff would recommend that the IPA instead or also consider doubling the length of the contractual delivery period from five to ten years. Review of the ACP funds currently available (i.e., ignoring future ACP revenues collected) suggests that those funds alone spread out over ten years would be sufficient to purchase at least four times the number of DG RECs purchased through the last two DG procurements combined (at average prices at or below the average prices from previous DG procure events). Furthermore, to the extent to which doubling the contract term to 10 years would improve the attractiveness of the contracts to potential suppliers, it seems likely that the average winning prices resulting from the procurement would be lower and the quantity purchased closer to the targets.

Based on the discussion, above, Staff recommends that the Plan be modified to allow for either one or two DG procurement events in 2017, but that the annual quantity targets and spending limits for each event be split equally between 5-year and 10-year contracts.

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<sup>6</sup> This is approximately 8% of the average REC price resulting from the RFP. In comparison, the Supplier Fees for the last two standard energy procurements were less than one-tenth of one percent of the average value of the products purchased.

**B. 8.4.1 Reference to a future “contingency procurement under the Supplemental Photovoltaic Plan” is confusing and should be clarified or removed.**

In the first paragraph of this section, the Plan states,

Timing of the procurement events will be determined at a later date based upon if the IPA determines that it will be conducting an April, 2017 contingency procurement under the Supplemental Photovoltaic Plan, and other factors.<sup>7</sup>

It is unclear why the IPA is referring to a future “contingency procurement under the Supplemental Photovoltaic Plan.” The Supplemental Photovoltaic Plan was filed in 2014, pursuant to Section 1-56(i) of the IPA Act. After completing three procurements specified in that plan, all funds that were earmarked by Section 1-56(i) for the Supplemental Photovoltaic Plan procurements (\$30 million) have been contractually committed, rendering moot the need for a fourth contingency procurement event. Hence, making reference to a future “contingency procurement under the Supplemental Photovoltaic Plan” is confusing. If the IPA is contemplating that such a contingency procurement may be necessary due to contract defaults or to under-performance by its REC suppliers, to a change in the law whereby additional funds are earmarked for the Supplemental Photovoltaic Plan, or some other reason why such a contingency procurement could become possible, then the Plan should be amended to make those circumstances clear. Otherwise, the reference to a future “contingency procurement under the Supplemental Photovoltaic Plan” should simply be removed from the Plan.

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<sup>7</sup> IPA Plan, 98.

**C. 9.2 The Commission should require transparent reporting of all expected Section 16-111.5B energy efficiency costs by directing the utilities to report, and the IPA to include in its Plan, the total expected costs to be incurred for Section 16-111.5B.**

Staff agrees with the IPA's conclusion that the 2016 Section 16-111.5B Stakeholder Advisory Group ("SAG") subcommittee workshop process was a laudable success. (Plan, 106.) Nevertheless, Staff does not agree that it is unnecessary for the Commission to resolve any of the issues that parties were unable to resolve through the 2016 Section 16-111.5B SAG subcommittee workshop process. The SAG subcommittee workshop specifically addressed the additional reporting of costs issue in response to the Commission's directive from the last IPA Procurement Plan docket. Specifically, the Commission's directive from the 2016 IPA Procurement Plan docket states:

It seems that even after the Commission ordered the utilities to track their administrative costs in Docket No. 14-0588, the utilities are not clear as to what administrative costs should be tracked, and, as ComEd has noted, it is unclear what Staff proposes with respect to additional reporting and whether it is needed. These topics should be thoroughly addressed and determined with specificity in workshops conducted by the SAG.

Illinois Power Agency, ICC Final Order Docket No. 15-0541, 95 (Dec. 16, 2015) (emphasis added). The Commission explicitly ordered that the additional reporting of costs to be thoroughly addressed and determined with specificity in the workshops. Given consensus was not able to be reached among the parties participating in the workshops concerning the additional reporting of costs for inclusion in the procurement plan, it is certainly appropriate for the Commission to resolve this disputed issue in this proceeding in order to help ensure full transparency in the reporting of expected Section 16-111.5B costs in future procurement plans. In particular, the Commission should require Ameren Illinois and ComEd to report all expected Section 16-111.5B costs to the IPA in their

Section 16-111.5B energy efficiency assessment submittals. Furthermore, the Commission should require the IPA, based upon this information, to report total expected Section 16-111.5B energy efficiency procurement costs in its procurement plan filings.

In contrast to Staff's position, a couple parties have taken the position that other Section 16-111.5B costs beyond those impacting the total resource cost ("TRC") test analysis of individual programs are already reported to the Commission in reconciliation filings, and submittal to the IPA of this additional information is neither necessary nor required by the governing law. (Appendix H – 2017 IPA Procurement Plan (Report from the Illinois Energy Efficiency Stakeholder Advisory Group (IL EE SAG) 2016 Section 16-111.5 B Workshop Subcommittee), 25.) Staff disagrees.

As an initial matter, when making program-by-program decisions, Staff supports an incremental evaluation of cost-effectiveness. That is, whether an additional program is approved should depend upon the expected program-specific incremental benefits exceeding its expected program-specific incremental costs. In making individual program decisions, such an approach does not and should not directly consider non-scalable non-program-specific Section 16-111.5B costs. If the incremental benefits from the program exceed any additional incremental costs from the program, then the program will increase net benefits produced by Section 16-111.5B programs in total.

On the other hand, the IPA or the Commission cannot determine the impact of the Section 16-111.5B portfolio on consumer bills without consideration of non-scalable non-program-specific Section 16-111.5B costs.<sup>8</sup> (See Appendix H – 2017 IPA Procurement

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<sup>8</sup> Non-Scalable non-program-specific Section 16-111.5B costs are costs incurred due to Section 16-111.5B that are not program specific, and that are largely fixed and generally not dependent upon budgets of approved Section 16-111.5B programs.

Plan, 11-12.) A plan which is both transparent and capable of being audited must include reporting of the full expected cost of implementing Section 16-111.5B. For these reasons, the utilities should report estimates of all Section 16-111.5B costs, including non-scalable non-program-specific Section 16-111.5B costs, to the IPA. The IPA should further include overall Section 16-111.5B costs explicitly in its procurement plan.

As a practical matter, it is not entirely clear whether utilities have reported all Section 16-111.5B costs. Ameren Illinois indicates that it excluded fixed or non-scalable costs when performing cost benefit tests, but does provide a percentage estimate of 1.55% for non-scalable costs. (Appendix B (Ameren Illinois Section 16-111.5B Submittal) – 2017 IPA Procurement Plan, 6-7; Plan, 115, footnote 247.) It is not evident from either the Plan or the attached appendices the extent to which ComEd did or did not include any non-scalable non-program-specific Section 16-111.5B costs in its submission to the IPA.

Whether or not the utilities include realized non-scalable non-program-specific Section 16-111.5B costs at some later date, in reconciliation dockets, annual reports, or elsewhere, has no bearing on whether the costs should be reported as part of the procurement planning and approval process. Making these estimates available during the procurement planning and approval process, rather than later, provides the IPA, the Commission, and the public with an estimate of total projected utility Section 16-111.5B energy efficiency spending – information that should be available in order to make statutorily-required energy efficiency procurement plans transparent and auditable. Based upon the above, the Commission should require transparent reporting of all expected Section 16-111.5B energy efficiency costs by directing the utilities to report, and

the IPA to include in its Plan, the total expected costs to be incurred for Section 16-111.5B.

**D. 9.3 The Commission should adopt the 2016 Section 16-111.5B Energy Efficiency Consensus Items set forth in the Cost Tracking and Reporting section and Attachment A of the 2016 SAG Workshop Subcommittee Report (Appendix H – 2017 IPA Procurement Plan).**

The IPA includes certain specific consensus items agreed to by participants to the 2016 Section 16-111.5B SAG Workshops within Section 9.3 of the Plan. (Plan, 107-110.) Staff supports the IPA's request "that the Commission expressly approve the consensus items to be binding upon the energy efficiency programs approved as part of the IPA's 2017 Procurement Plan for the planning of, implementation of, reporting on, and evaluation, measurement and verification of savings achieved by such programs, as well as binding upon parties up to the development of the IPA's 2018 Procurement Plan (at which time any changes to the list below may be considered)." (Plan, 107.) Commission approval of the consensus items is useful as it provides guidelines to energy efficiency vendors and the utilities.

The IPA also requests that the Commission expressly approve the consensus language from the 2016 SAG Workshop Report (Appendix H – 2017 IPA Procurement Plan) that is not reproduced in Section 9.3 of the Plan. (Plan, 110.) Staff supports the IPA's request in regard to the broader consensus items that continue to be relevant beyond this docket and Staff recommends the Commission explicitly approve such broadly applicable Section 16-111.5B consensus language from the 2016 SAG Workshop Report. For example, the 2016 SAG Workshop Report includes detailed language

specifying agreement regarding how Ameren and ComEd shall track and report their costs. (Appendix H – 2017 IPA Procurement Plan, 11-12.) This consensus language was developed in response to the Commission’s directive from the last IPA Procurement Plan docket:

It seems that even after the Commission ordered the utilities to track their administrative costs in Docket No. 14-0588, the utilities are not clear as to what administrative costs should be tracked, and, as ComEd has noted, it is unclear what Staff proposes with respect to additional reporting and whether it is needed. These topics should be thoroughly addressed and determined with specificity in workshops conducted by the SAG.

Illinois Power Agency, ICC Final Order Docket No. 15-0541, 95 (Dec. 16, 2015).

Commission adoption of the consensus language related to “Cost Tracking and Reporting” will help ensure consistency and clarity in the utilities’ reporting of Section 16-111.5B administrative costs and it will aid the IPA, the Commission, and other interested parties in their review of proposed administrative cost adders in future procurement plan proceedings. Accordingly, Staff supports the Commission explicitly adopting the consensus language in relation to “Cost Tracking and Reporting” at pages 11-12 of the 2016 SAG Workshop Report. (Appendix H – 2017 IPA Procurement Plan, 11-12.) For clarity, Staff reproduces the “Cost Tracking and Reporting” consensus language below:

### **Cost Tracking and Reporting**

Ameren Illinois and ComEd shall track the costs described below, and assign costs to either Section 16-111.5B or Section 8-103 energy efficiency programs. However, stakeholders may not see the allocation of costs between Section 16-111.5B and Section 8-103 programs during the applicable reconciliation docket with the Commission. Instead, ComEd and Ameren Illinois will provide allocated costs between Section 8-103, 8-104 and 16-111.5B

programs in the Program Administrator Annual Report<sup>9</sup> to SAG as described below.

*Section 16-111.5B Costs incurred by the Program Administrator:* Costs incurred due to Section 16-111.5B statutory requirements.

*Program-Specific Section 16-111.5B Costs:* Costs incurred due to specific Section 16-111.5B program(s). *Program-Specific Section 16-111.5B Costs* should be reported in the cost categories set forth below, which includes the following Policy Manual Version 1.0 cost categories:

- Evaluation (3%);<sup>10</sup>
  - Administration;<sup>11</sup> and
  - Marketing (including education and outreach).<sup>12</sup>
- *Non-Administrative Program-Specific Section 16-111.5B Costs* are defined as costs incurred due to Section 16-111.5B program(s) that do not otherwise fall under the Policy Manual Version 1.0 cost categories of Evaluation, Administration, and Marketing as specified above. *Non-Administrative Program-Specific Section 16-111.5B*

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<sup>9</sup> Program Administrator Annual Report refers to the report referenced in Subsection 6.6 Program Administrator Annual Summary of Activities (Annual Report) of the Policy Manual Version 1.0, ICC Final Order Docket No. 15-0487 Appendix at 19-20.

<sup>10</sup> Evaluation Cost means “any costs incurred in the scope of work for Evaluators hired pursuant to Section 8-103(f)(7) and 8-104(f)(8) of the Act, including no more than three percent (3%) of Portfolio resources (approved Plan budgets).” See Policy Manual Version 1.0, Section 5.2, Portfolio Cost Categories at 15.

<sup>11</sup> Id. Portfolio Administrative Cost means “a cost that may be incurred by a Program Administrator, contractor, or subcontractor that is not easily attributable to a specific Program or other cost categories, but benefits all functions of the Energy Efficiency Portfolio. Examples of Portfolio Administrative Costs include, but are not limited to, the following: a. Managerial and clerical labor; b. Human resources support, training and employee development; c. Travel and conference fees; d. Overhead (general and administrative, e.g., accounting, facilities management, procurement, administrative, communications, information technology and systems, telecommunications, data tracking etc.); e. Equipment (e.g., communications, computing, copying, general office, transportation, etc.); f. Office supplies and postage; g. Potential studies and market assessments; h. Portfolio Plan development; i. Litigation and cost recovery; and j. Legal and regulatory support and expenses.

<sup>12</sup> Id. Marketing Cost means the costs of marketing and outreach, which has a purpose of acquiring Program participation or consumer understanding of Section 8-103 and 8-104 Programs. It includes, but is not limited to, the costs for: a. Full-service marketing services, concepts and campaign strategy planning, including labor; b. Developing a marketing plan, timeline, budget and progress reports; c. Coordination and implementation of all marketing activities, including scheduling events, media buys, etc.; d. Promotional materials, including, general awareness and events; e. Website; f. Training of Trade Allies and Trade Ally expo events; g. Public relations, including community outreach; and h. General marketing primarily designed to increase other overall Program participation rather than claiming direct savings (e.g., an online audit tool or community challenge).

Costs should be reported in the following Policy Manual Version 1.0 Program Cost Categories: Incentives and Non-Incentive Costs.<sup>13</sup>

*Non-Program-Specific Section 16-111.5B Costs*: Costs incurred due to Section 16-111.5B that are not program-specific, reported in the following Policy Manual cost categories:

- Evaluation (3%);
- Administration; and
- Marketing (including education and outreach).

*General Administrative Scalable Costs* are defined as costs incurred due to Section 16-111.5B that are not program-specific and that increase as the budget of approved programs increases (i.e., linearly scalable with the budget of approved programs). Within the category *Non-Program-Specific Section 16-111.5B Costs*, costs can be scalable or non-scalable. “Scalable costs” are costs that are linearly scalable with the budget of approved programs. “Non-scalable costs” are costs that are largely fixed. Ameren Illinois and ComEd shall categorize all *Non-Program-Specific Section 16-111.5B Costs* in one of two categories: scalable or non-scalable. Upon request, ComEd and Ameren Illinois shall identify which costs it has included in the “Non-Program-Specific” cost categories and whether the costs are considered scalable or non-scalable, as well as provide a rationale for the categorization.

(Appendix H – 2017 IPA Procurement Plan, 11-12.)

For the above reasons, the Commission should adopt the 2016 Section 16-111.5B Energy Efficiency Consensus Items set forth in the Cost Tracking and Reporting section and Attachment A of the 2016 SAG Workshop Report (Appendix H – 2017 IPA Procurement Plan). Staff recommends the Commission explicitly approve the broadly applicable Section 16-111.5B consensus language from the 2016 SAG Workshop Report

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<sup>13</sup> See Policy Manual Version 1.0, Section 5.3, Program Cost Categories for Section 8-103 and 8-104 Programs at 16.

that continues to be relevant beyond this docket and that is not reproduced in Section 9.3 of the Plan.

**E. 9.5.4 The Commission has the authority to and should consider a variety of factors when determining whether to approve or reject an energy efficiency Program as part of the electricity procurement plan.**

Staff shares the concern (attributed to Ameren Illinois) with programs that are not primarily focused on electric savings. (Plan, 116.) The IPA should procure measures that are predominately justified based upon how the measures save electricity, reduce the overall costs of electric service, and compare to the prevailing cost of comparable supply. These are considerations specifically identified in Section 16-111.5B. The IPA is correct that natural gas savings “must be taken into account in assessing the cost-effectiveness of proposed programs.” (Plan, 116-117.) Staff, however, agrees with the approach specified in Ameren Illinois’ RFP that incidental gas savings should be considered when an electric program design captures incidental gas savings through multi-fuel measures. (Plan, 116.)

Staff commends the IPA for seeking and Ameren Illinois for producing additional information with respect to the two programs that Ameren Illinois identifies as overly reliant on gas savings. This additional information regarding the net electric benefits of these programs provides additional context with respect to the role of gas savings for these programs. This additional information, as well as other available and relevant information, should inform the Commission’s decision as to whether these two programs should be approved and included within the IPA’s Procurement Plan.

**1. 9.5.4.2 The Commission should reject the Demand Based Ventilation Control Program.**

With respect to the Demand Based Ventilation Control Program, the supplemental information included by the IPA suggests that the program is cost-effective, with an electric-only TRC ratio above 1.0, even when gas savings are not included. At first blush, it may appear that this program is justified based solely upon its electric savings potential. Staff does not, however, recommend relying upon the IPA's reported TRC ratio for the Demand Based Ventilation Control Program and simply approving the program without a closer review. Importantly, the Demand Based Ventilation Control Program is being proposed by a vendor who has failed to perform in Illinois. (See ComEd PY8 Quarter 4 Report,<sup>14</sup> 5, 19.) The positive TRC results for this program are unreliable as they are based upon projected performance levels that are inconsistent with the vendor's past performance. As a result and without having convincing information to lead to belief of significant improvements, they should not be the basis for acceptance of this program. While the IPA explicitly acknowledges this vendor was flagged as a potential performance risk in the ComEd and stakeholder bid review process (Plan, 117) and the IPA supports exclusion of this vendor's program in the ComEd service territory (Plan, 126), the IPA nevertheless proposes that this program be approved by the Commission for implementation in the Ameren service territory. The Commission should reject the IPA's proposal to approve the Demand Based Ventilation Control Program for implementation in the Ameren service territory. Ratepayers should not be forced to pay for any more administrative costs associated with having Ameren contract with this vendor who has

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<sup>14</sup> [http://ilsagfiles.org/SAG\\_files/Quarterly\\_Reports/ComEd/EPY8/ComEd\\_PY8\\_Q4\\_Report.pdf](http://ilsagfiles.org/SAG_files/Quarterly_Reports/ComEd/EPY8/ComEd_PY8_Q4_Report.pdf)

historically failed to perform in Illinois. The Demand Based Ventilation Control Program is not cost-effective once reasonable input assumptions are utilized consistent with past performance, and thus the program should be excluded from the Plan.

For these reasons, and consistent with Ameren's recommendations set forth in its submittal, the Commission should reject the Demand Based Ventilation Control Program. (Appendix B (Ameren Illinois Section 16-111.5B Submittal) – 2017 IPA Procurement Plan, 16.)

**2. 9.5.4.3 The Commission should reject the bundled Behavioral Program.**

The IPA recommends the Commission approve a “bundled” Home Energy Report “Behavioral Program”. Staff recommends the Commission reject the IPA's recommendation. This proposed program consists of two parts, a “Continuation Program” targeted to dual-fuel homes and an “Expansion Program” offered to electric-only households (which can vary in number based upon which of several expansion program options offered by the vendor is considered). In this instance, the supplemental information presented by the IPA reveals that, standing alone, the Expansion Program passes both the TRC and Cost of Supply tests. However, the Continuation Program is marginally cost-effective only when gas savings are included (with a TRC ratio of 1.07). (Plan, 118.) When gas savings are excluded, the program is not cost-effective, with a TRC ratio of 0.87. (Plan, 118.) The Continuation Program also, standing alone, fails the Cost of Supply test. (Plan, 118.) Importantly, the Continuation Program, standing alone, fails the Utility Cost Test (“UCT”) and thus does not satisfy the Section 16-111.5B(a)(3)(D)

requirement demonstrating the program would result in a reduction in the cost of electric service. In fact, when the Continuation Program is included with the Expansion Program in a bundle, the bundle fails the Cost of Supply test. In Staff's view the Continuation Program is not justified based solely upon its electric savings and net benefits. In contrast, the Expansion Program standing alone is fully justified based upon passing both the TRC, UCT and Cost of Supply tests. Despite this, Staff does not recommend inclusion of the proposed bundle of the two parts of the program.

One part of this program, the Expansion Program, meets the criteria of the PUA and one part of this program, the Continuation Program, does not. The part that does not meet the criteria negatively influences the overall ability of the package to meet statutory goals by making the combined programs fail the Cost of Supply test and reducing the margin by which the programs pass the TRC test. This type of bundled bidding should be discouraged, since it reduces net benefits, and increases the cost of electric service. Finally, excluding the Continuation Program from the Procurement Plan would not significantly affect energy savings, due to the high level of "persistence" associated with this behavior program. For example, customers who have been in Ameren's behavioral program for many years may save 95% or more of what they can be expected to save under the Continuation Program, even if the Continuation Program is excluded from the Procurement Plan. (See IL-TRMv5.0 Vol. 4,<sup>15</sup> 16.) Ratepayers should not be forced to pay for such minimal incremental energy savings by funding this cost-ineffective portion of the bundled program.

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<sup>15</sup>[https://www.icc.illinois.gov/downloads/public/IL-TRM\\_Effective\\_060116\\_v5.0\\_Vol\\_4\\_X-Cutting\\_Measures\\_and\\_Attach.\\_021116\\_Final.pdf](https://www.icc.illinois.gov/downloads/public/IL-TRM_Effective_060116_v5.0_Vol_4_X-Cutting_Measures_and_Attach._021116_Final.pdf)

As an alternative to outright rejection of the program, the Commission could consider approving only the Expansion Program portion of this proposed program as part of the 2017 Procurement Plan. Under this scenario, Staff would recommend the Commission approve the Expansion Program that is projected to produce the greatest level of TRC net benefits. This option would presumably require Ameren to negotiate with the vendor for inclusion of an Expansion Program that is cost-effective and provides net benefits. As with all other approved Section 16-111.5B programs, should the vendor not be interested in implementing the cost-effective Expansion Program only, it would be free to choose to do so after Commission approval.

**F. 9.6.8 The Commission should reject the Programs that do not lead to a reduction in the overall cost of electric service.**

Footnote 276 of the Plan states: “ComEd also provided the results of the UCT test and 14 of the 16 proposed programs passed the UCT. The IPA considers that informational only and has not used the UCT test in its consideration of programs to include in this Plan.” (Plan, 127.) Staff disagrees with the IPA’s assessment. The results of the Utility Cost Test (“UCT”) are provided to satisfy the Section 16-111.5B(a)(3)(D) requirement to include an “[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). Two of the energy efficiency programs that pass the TRC test and that the IPA proposes to be approved for implementation in the ComEd service territory fail to satisfy the UCT. Specifically, two programs have UCT values below 1.0, namely, the Middle School Energy Education Campaign Program has a UCT value equal to 0.95 and the Low Income Multifamily Retrofits Program has a UCT

value equal to 0.95. Staff believes the Commission should rely upon this information that shows that approval of each of these programs would each lead to an increase in the overall cost of electric service and direct the IPA to exclude the two programs that fail the UCT from the Plan. As the Commission noted in last year's Procurement Plan docket, "The only reduction in the cost of electric service that would take place with energy efficiency programs that are more expensive than electricity would be to shift the cost of electricity onto the purchase of energy efficiency, at a greater price. Procurement of such energy efficiency programs seems to contravene the spirit, if not the letter, of this portion of the statute." Illinois Power Agency, ICC Final Order Docket No. 15-0541, 102 (Dec. 16, 2015). In making this determination, the Commission should also be cognizant of the large number of programs already included in the Plan and the significant amount of costs and administrative burden these will already impose. As the Commission determined in last year's Procurement Plan Order, the statute provides the Commission with flexibility to impose practical limits on the procurement of energy efficiency pursuant to Section 16-111.5B. Illinois Power Agency, ICC Final Order Docket No. 15-0541, 100 (Dec. 16, 2015). Accordingly, the Commission should direct the IPA to exclude the Middle School Energy Education Campaign Program and the Low Income Multifamily Retrofits Program which are expected to increase the cost of electric service from the Plan.

**G. 9.6.5 The Commission should require the 2017 Section 16-111.5B SAG Workshops to assess and refine the bid review criteria to screen programs and identify them as "Performance Risk."**

In addressing performance risk by ultimately rejecting poor performing vendor's proposed programs, the IPA identifies a two-step approach developed by ComEd and

participating stakeholders which identifies potential performance risk based upon past performance, but allows for adjusted expectations based upon relevant new information. (Plan, 125-126.) Staff supports this two-step approach and believes it is a reasonable approach to addressing performance risk for purposes of these specific programs in this Plan. However, Staff would like to bring to the Commission's attention several concerns with comments or assumption made by the IPA with respect to this proposal.

First, the IPA asserts the risks associated with non-performance are almost entirely mitigated through pay-for-performance contracting. (Plan, 126.) This overstates the protections offered by pay-for-performance contracting. In particular, pay-for-performance contracting certainly does not enable the utilities to recover from vendors the utilities' administrative costs associated with non-performing programs.

Additionally, the two-step proposal relies upon a five percent past performance criteria to screen bidders that may prove to be an insufficiently low benchmark in the future. For example, a provider that only delivered 6% of its savings goals certainly could not be said to have performed well in the past. Thus, Staff suggests, at a minimum, that the Commission remain open to adjustments of this approach in future years as it may prove insufficient to protect customers from costs resulting from unreasonable and/or excessive performance risk.

Staff is also concerned that locking in such a low bar does not incentivize vendors to accurately forecast their expected savings. In particular, vendors currently have an incentive to overstate achievable savings bid into program submittals in order to pass the TRC test. A low bar of needing to meet only 5% of proposed savings goals may provide the impression to bidders that proposing realistic savings goals in their bid submittals is

not something of value. Alternatively, if, for example, the bar was established at 99% of savings goals (a value selected by Staff for illustrative purposes only), then this would provide a clear signal to bidders that they need to propose realistic savings goals because if they were to fail to achieve 99% of the savings goal, then they could be rejected during bid review in future program years. Staff notes that this concern about overstating achievable savings is not a hypothetical one. Numerous bids have proven to be overstated. The low bar adopted in this Plan, if relied upon for use in future bid reviews, may exacerbate this current problem in future bid submittals. Thus, Staff respectfully requests the Commission approve this approach for purposes of the current Plan, but direct the non-financially interested SAG parties to address this issue further following Commission approval in order to determine what might be an appropriate benchmark(s) to use in future years bid review processes.

### III. CONCLUSION

Staff respectfully requests that the Illinois Commerce Commission make note of Staff's objections to the Plan and approve Staff's recommendations in this docket. If the Commission ultimately accepts Staff's objections or any other changes to the Plan, the Commission should also direct the IPA to file a revised procurement Plan as a compliance filing in accordance with 20 ILCS 3855/1-75(f).

Respectfully submitted,

/s/

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JOHN C. FEELEY  
JAMES V. OLIVERO

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*Counsel for the Staff of the  
Illinois Commerce Commission*

October 3, 2016

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

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**ILLINOIS POWER AGENCY**

**Petition for Approval of the 2016 IPA  
Procurement Plan pursuant to  
Section 16-111.5(d)(4) of the Public  
Utilities Act**

**Docket No. 16-0453**

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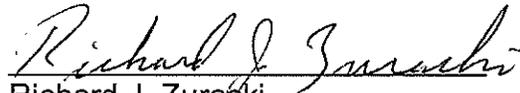
**AFFIDAVIT OF RICHARD J. ZURASKI**

State of Illinois            )  
  )  
County of Sangamon        )

The undersigned, under oath, deposes and states as follows:

1. My name is Richard J. Zuraski. I am employed by the Illinois Commerce Commission as an Economist in the Policy Division.
2. I have read the Staff of the Illinois Commerce Commission's Objections to the Illinois Power Agency's 2017 Procurement Plan ("Objections").
3. I have personal knowledge of facts and matters discussed in the Objections and, to the best of my knowledge, information and belief, those facts and non-legal opinions expressed in the Objections are true and accurate and, if sworn as a witness, I could testify concerning them.

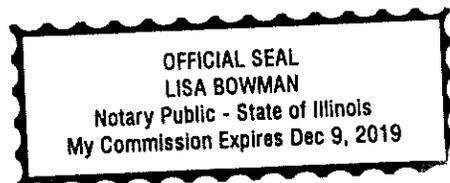
Further affiant sayeth not.

  
Richard J. Zuraski

Subscribed and sworn to before me

This 3<sup>rd</sup> day of October, 2016.

  
\_\_\_\_\_  
Notary Public



**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

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**ILLINOIS POWER AGENCY**

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**AFFIDAVIT OF JAMES M. ZOLNIEREK**

State of Illinois            )  
  )  
County of Sangamon        )

The undersigned, under oath, deposes and states as follows:

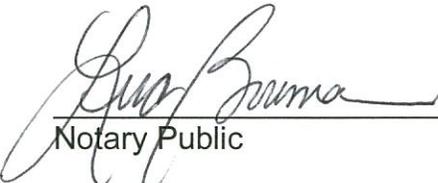
1. My name is James M. Zolnierек. I am employed by the Illinois Commerce Commission as the Director of the Commission's Policy Division.
2. I have read the Staff of the Illinois Commerce Commission's Objections to the Illinois Power Agency's 2017 Procurement Plan ("Objections").
3. I have personal knowledge of facts and matters discussed in the Objections and, to the best of my knowledge, information and belief, those facts and non-legal opinions expressed in the Objections are true and accurate and, if sworn as a witness, I could testify concerning them.

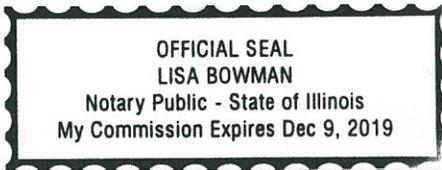
Further affiant sayeth not.

  
James M. Zolnierek

Subscribed and sworn to before me

This 3rd day of October, 2016.

  
Notary Public



**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

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**ILLINOIS POWER AGENCY**

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**AFFIDAVIT OF JENNIFER H. MORRIS**

State of Illinois            )  
  )  
County of Sangamon        )

The undersigned, under oath, deposes and states as follows:

1. My name is Jennifer H. Morris. I am employed by the Illinois Commerce Commission as an Economist in the Commission's Policy Division.
2. I have read the Staff of the Illinois Commerce Commission's Objections to the Illinois Power Agency's 2017 Procurement Plan ("Objections").
3. I have personal knowledge of facts and matters discussed in the Objections and, to the best of my knowledge, information and belief, those facts and non-legal opinions expressed in the Objections are true and accurate and, if sworn as a witness, I could testify concerning them.

Further affiant sayeth not.

Jennifer H. Morris  
Jennifer H. Morris

Subscribed and sworn to before me

This 3rd day of October, 2016.

Lisa Bowman  
Notary Public

