

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

ILLINOIS POWER AGENCY	:	
	:	
Petition for Approval of the 2017 IPA	:	Docket No. 16-0453
Procurement Plan pursuant to Section	:	
16-111.5(d)(4) of the Public Utilities Act	:	

REPLY COMMENTS OF THE ENVIRONMENTAL LAW & POLICY CENTER

Pursuant to the Commission’s October 5, 2016 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) 2017 Procurement Plan, which the IPA filed with the Illinois Commerce Commission (ICC or Commission) for consideration and approval on September 27, 2016.

I. RENEWABLE ENERGY RESOURCES PROCUREMENT

In general, ELPC agrees with the IPA’s Responses to objections regarding the Renewable Energy Resource Procurement portion of its 2017 Procurement Plan. The IPA is the agency charged with implementing the Illinois Renewable Energy Standard and the Illinois Power Agency Act’s requirement to procure “adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest cost over time, taking into account any benefits of price stability.” (20 ILCS3855/1-5) As such, the IPA must be given appropriate leeway to balance all of the requirements and obligations imparted in statute in a reasonable way. This includes balancing various statutory obligations to procure renewable energy with various contractual obligations to renewable energy providers and the various funding sources that can be used to meet those obligations. As the IPA points out in its Response comments, this is the ninth annual plan that the Agency as submitted for Commission approval. In crafting its 2017

Plan, the Agency has accounted for lessons learned and prior experience in implementing prior plans, and it has included the suggestions of market participants and other stakeholders in designing the distributed generation (DG) procurement to encourage greater market participation and a more competitive result. ELPC urges the Commission to consider this history and context when reviewing this year's plan. With this in mind, ELPC respectfully submits the following specific replies for the Commission's consideration:

A. The Commission Should Reject the Renewables Suppliers' Suggestion that the DG Procurement Not Occur Until After Decisions Around Curtailment Are Made.

ELPC agrees with the IPA that the Commission should reject Renewables Suppliers' suggestion that the DG procurement not take place until after the March load forecasts are received and a determination on any necessary curtailment is made. The IPA correctly argues that DG procurements, as with all other resource procurements, should be scheduled based on "criteria related to the success of the procurement itself." (IPA Response at 5) It might be appropriate to consider the needs of LTPPA holders if the Hourly ACP Fund from which DG contracts are paid were in some way committed to LTPPAs, however as the IPA points out the use of the Hourly ACP Fund for LTPPAs is neither a statutory nor contractual obligation. (IPA Response at 3) Basing procurement timing around concerns unrelated to holding successful procurements that fulfill the statutory requirements of the Illinois Power Agency Act risk limiting the success of procurement events, increasing costs to ratepayers, and setting a bad precedent vis-à-vis other procurement events. In this case, even the LTPPA holders concede that ComEd and AIC load forecasts show no need for curtailments of long-term contracts over the next five years, so a decision to structure the IPA's larger procurement strategy around that unlikely contingency would not be prudent.

B. The Commission Should Reject the Renewable Supplier’s Attempt to Prioritize the Use of Hourly ACP Funds for Curtailed RECs from LTPPAs.

ELPC agrees with the IPA, Commission Staff, and ComEd that Hourly ACP Funds are obligated to previously signed DG contracts. As the IPA points out in its Response, “Commission Orders and administratively approved IPA Procurement Plans unambiguously [designate] hourly ACP funds as the source of funding for prior DG contracts,” and these decisions are binding upon the utilities that hold the Hourly ACP Funds. (IPA Response at 5)

ELPC further agrees with the IPA, Commission Staff, and ComEd that the Commission should reject Renewable Suppliers’ proposal to make future DG contracts subordinate to curtailed LTPPAs going forward and endorse a continuance of the current practice of signing DG contracts intended to be paid from Hourly ACP Funds *without* introducing curtailment provisions. Both Commission Staff and the IPA make a number of arguments against the prioritization of Hourly ACP Funds to curtailed LTPPAs over DG resources, including:

- 1) LTPPA holders were aware of the risk of curtailment (and presumably priced in that risk). (IPA Response at 6 and Commission Staff Response at 6)
- 2) Past proceedings that approved the use of Hourly ACP Funds for curtailed LTPPAs were intended to apply to procurement events in the specific years referenced in said proceedings, not future procurement events. (IPA Response at 3 and Commission Staff Response at 6)
- 3) In the event it becomes necessary, there are other potential sources of funding for curtailed LTPPAs, but there are not other sources of funding that can be applied to DG contracts. (IPA Response at 4)
- 4) Adding curtailment provisions to DG REC contracts would presumably lessen the attractiveness of contracts to bidders potentially leading to even lower participation

and/or higher contracting pricing due to the addition of risk premia. (Commission Staff Response at 7)

Based upon the merits of these arguments, ELPC agrees with the IPA that the Commission should approve the use of the hourly ACP funds to meet the Agency's statutory obligations to procure RECs from DG systems without introducing unnecessary complexity and risk into these contracts. (IPA Response at 4.)

C. The Commission Should Reject ICC Staff's Suggestion to Lengthen DG Contract Term Length in Lieu of Holding Multiple Procurements Despite the Legitimate Concerns Raised.

ELPC supports the IPA in its proposal to hold multiple procurements despite Commission Staff's valid criticism that doing so will increase costs. As the IPA indicates in its Response, "comments received on the draft 2017 Plan—including those from entities that might participate in the DG procurement itself—demonstrated a strong desire for multiple procurements." (IPA Response at 7) For example, the Illinois Solar Energy Association indicates that holding more than one procurement event could provide more opportunities for its members to participate and therefore a more competitive process. (ISEA Response at 1-2) As demonstrated from these comments and as ELPC has explained in our own Response, holding multiple procurements should substantively enhance the success of the DG procurement and is therefore worth the increased costs. (ELPC Response at 2-3)

Furthermore, with regard to 5- vs. 10-year contract terms, ELPC agrees with the IPA that "a longer contract term may not necessarily spur additional participation." (IPA Response at 7) While it is possible that longer contract terms will spur additional participation, the Illinois Solar Energy Association stated that doubling the length of the delivery period could unintentionally complicate the procurement process and increase bidder confusion. (ISEA Response at 3)

Regardless of contract length, as stated in our Response, ELPC remains concerned that Commission Staff's suggestion in their Objection of offering multiple contract lengths risks complicating a process that is already prohibitively complicated for some potential participants.

(ELPC Response at 4)

II. CONCLUSION

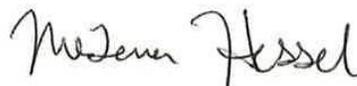
For the reasons discussed above, ELPC respectfully requests that the Commission approve the renewable energy resources procurement as proposed by the Agency in its 2017 Plan.

Dated: October 31, 2016

Respectfully submitted,



Bradley Klein
Senior Attorney
Environmental Law & Policy Center
35 East Wacker Drive, Suite 1600
Chicago, IL 60601
T: (312) 795-3746
F: (312) 795-3730
bklein@elpc.org



MeLena Hessel
Policy Advocate
Environmental Law & Policy Center
35 E. Wacker Drive, Suite 1600
Chicago, IL 60601
T: (312) 795-3738
F: (312) 795-3730
mhessel@elpc.org

