

**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 BRIEF ON EXCEPTIONS OF THE
ENVIRONMENTAL LAW & POLICY CENTER**

The Environmental Law & Policy Center (ELPC) respectfully submits the following Reply to the parties' Briefs on Exceptions (BOE) filed on November 21, 2016 in the above-captioned matter.

I. Renewable Energy Resources Procurement

ELPC addresses two issues related to the Illinois Power Agency's (IPA) renewable energy resources procurement: (A) whether to guarantee a delay to the initial 2017 DG REC procurement until after decisions around curtailment are made and (B) whether future DG REC contracts should be subordinate to LTPPAs.

ELPC fully supports the position of the IPA and the Administrative Law Judge's Proposed Order on both of these issues. ELPC also notes that the December 1, 2016 passage of Senate Bill 2814 by the Illinois General Assembly, which fixes the Illinois RPS and creates a secure future funding stream for new and existing renewable energy contracts, provides another reason to approve the IPA's DG REC procurement as proposed in its 2017 Plan.

A. The IPA should retain discretion regarding when to DG schedule procurements.

The Administrative Law Judge's Proposed Order (ALJPO) correctly rejected the Renewables Suppliers' proposal to guarantee in the IPA Plan a delay to the initial DG REC procurement until after a decision around curtailment is made. The IPA is correct that

procurements should be scheduled based on the criteria pertinent to holding a successful procurement including “the availability of internal and external resources, the timetable for contract development and completion, maximizing bidder participation, and other concerns related to meeting statutory requirements at the lowest total cost over time.” (IPA Response at 5.) These are the considerations that necessitate not holding the initial procurement before late March/early April, as the Renewables Suppliers suggest in their brief on exceptions, but rather granting the IPA discretion as to when to schedule DG procurement events. (Renewables Suppliers BOE at 3.)

Furthermore, the specter of committing so much money from the Hourly ACP Fund to DG RECs that curtailed RECs will go uncompensated is unrealistic. First, because, as all parties including the Renewables Suppliers agree, curtailments are unlikely for 2017-2018. (Renewables Suppliers BOE at 4.) Second, because even in the unlikely event that curtailment occurs, the IPA has stated it is unlikely to hold its first DG procurement before late March, after the load forecast has been released and any curtailment can be taken into consideration. (IPA Response at 5.) Third, because even in the doubly unlikely events that a curtailment does occur *and* the IPA holds its first DG procurement before late March, the IPA is planning two DG procurements for 2017-2018, so there will be uncommitted funds left in the Hourly ACP Fund that could still be used for curtailed RECs. (IPA Plan at 98.) And fourth, because even in the triply unlikely event of curtailment combined with an early initial DG REC procurement resulting in too small a pool of funds to buy all curtailed RECs, there are still other sources of funding available for curtailed RECs, as the Renewables Suppliers acknowledge in their Brief on Exceptions (BOE) – albeit using a different formula than would be used for Hourly ACP Funds. (Renewables Suppliers BOE at 4.) Finally, the recent passage of SB 2814 by the Illinois General Assembly addresses the

Renewables Suppliers concerns about future curtailments in two ways: (1) by creating a stable and secure funding source for RPS compliance going forward, and (2) by prioritizing the funding of existing renewable resources contracts to ensure that curtailments will not occur.

For all these reasons, it makes sense to leave the timing of DG REC procurement events at the discretion of the IPA. Likewise, the ALJPO was correct to reject Renewables Suppliers proposal to guarantee a delay of the initial DG REC procurement until after curtailment decisions are made because such a guarantee would limit that discretion.

B. The ALJP correctly rejects Renewables Suppliers' proposal to make new DG REC contracts subordinate to LTPPAs.

The ALJPO was correct to deny the Renewables Suppliers' proposal to make future DG REC contracts subordinate to LTPPAs. (ALJPO at 25.) There are a number of clear reasons to not undermine future DG REC contracts access to the Hourly ACP Fund, including the fact that the Hourly ACP Fund provides the DG REC contracts with the secure funding necessary to fulfill the statutory requirement of contracts having a five-year term, the fact that curtailments are not expected over the next five years based on current load forecasts, and the fact that LTPPAs already have a primary source of funding in the RRB. (IPA Response at 4, IPA Plan at 95, and ALJPO at 25.)

Furthermore, contrary to Renewables Suppliers claims in their BOE, the Commission's Order in Docket 13-0546 pertaining to the use of the Hourly ACP Fund for the purchase of curtailed RECs *does not* apply to all future years, but rather only to the years referenced in that order. Specifically those years include that year (2014-2015) and – as the Renewables Suppliers highlight in their BOE – the *following* year (2015-2016). (Renewables Suppliers BOE at 10, citing Docket 13-0546.) This interpretation of Docket 13-0546 is in line with the understanding

of multiple other parties to both cases, including Commission Staff and the IPA. (IPA Response at 3 and Commission Staff Response at 6.)

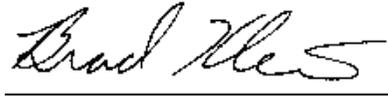
Renewables Suppliers are correct that REC curtailment adversely impacts renewables development in ways that seriously undermine the public interest. (Renewables Suppliers BOE at 10-12.) However both the proposed IPA Plan and the ALJPO demonstrate an appropriate balance between the public interest goals related to avoiding curtailment of LTPPAs with the public interest goals related to the purchase of DG RECs – including trying to avoid future curtailment of DG RECs, which would further undermine the public interest. The IPA Plan takes numerous steps to lessen risks associated with potential curtailment of LTPPAs, including identifying two potential backup sources of funds in the unlikely event of curtailment. (IPA Reply at 2.)

Furthermore the shift towards RPS funds being collected via a lines charge due to the passage of SB 2814 eliminates the risk of funding being unavailable to pay for LTPPAs in future years.

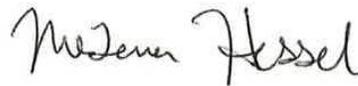
Far from meeting public interest goals by eliminating the risk of curtailment that, as previously discussed, is already highly unlikely, Renewables Suppliers proposal to subordinate DG REC contracts to LTPPAs would further undermine public interest goals by unnecessarily introducing the risk of curtailment to a whole new class of RECs and thereby increasing REC costs and further discouraging renewables development in Illinois. For these reasons, the ALJPO correctly rejects Renewables Suppliers proposal to subordinate new DG REC contracts to LTPPAs.

Dated: December 2, 2016

Respectfully submitted,



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