

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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

REPLY BRIEF ON EXCEPTIONS OF COMMONWEALTH EDISON COMPANY

Commonwealth Edison Company (“ComEd”) submits this Reply Brief on Exceptions (“RBOE”) relating to the Administrative Law Judge’s (“ALJ”) Proposed Order (“Proposed Order” or “PO”) served on November 14, 2016 and the Briefs on Exceptions (“BOE”) filed by various parties on November 21, 2016. As ComEd noted in its BOE, ComEd appreciates the Proposed Order’s careful consideration of a variety of complex issues, and finds that the Proposed Order generally reflects a thoughtful and balanced treatment of the issues.

In this RBOE, ComEd replies to the exceptions of the Illinois Power Agency (“IPA”) and the Renewables Suppliers with respect to two issues. First, ComEd agrees with the IPA that the proposal advanced by the Staff of the Illinois Commerce Commission (“Staff”) and adopted by the Proposed Order regarding the imposition of new reporting requirements for non-program-specific costs would impose costs that far outweigh any perceived benefits. Second, ComEd supports the Proposed Order’s resolution of how to prioritize the use of hourly customers’ alternative compliance payments (“ACPs”) that are held by utilities to procure distributed generation resources, and thus recommends that the Renewables Suppliers’ exception be rejected.

I. REPLY TO THE IPA – SECTION 9.2: 2016 SECTION 16-111.5B SAG WORKSHOP SUBCOMMITTEE (SEC. V.A OF PO)

Throughout this proceeding, ComEd and the IPA have expressed concern with Staff’s proposal that the Commission mandate that utilities submit upfront projections of all Section 16-

111.5B costs – which would now include, for the first time, estimates of non-scalable non-program specific administrative costs – in each utility’s Section 16-111.5B submittal. Because the Proposed Order nevertheless adopted Staff’s position (PO at 38), ComEd and the IPA further addressed the issue in their BOEs (ComEd BOE at 3-6; IPA BOE at 1-2). While ComEd will not repeat its arguments here, it is important to highlight that the IPA – the agency charged with analyzing the cost information submitted by the utilities and preparing the procurements, “believe[s] that the potential confusion created through the disclosure of these estimates carries greater cost than any benefits associated with requiring their inclusion.” IPA BOE at 2. Although the IPA ultimately takes no exception to the Proposed Order’s conclusion, the IPA readily admits that its position is taken “in the interest of reducing the number of contested issues” and that “compliance with this requirement would create a negligible burden for the IPA.” *Id.*

As explained in ComEd’s BOE, however, Staff’s proposal creates administrative burdens on ComEd for no identifiable purposes. ComEd BOE at 5. As the IPA summarizes in its BOE, Staff has not identified a credible justification for its proposal:

While the Commission certainly has authority to force parties’ filings to include additional items beyond statutory requirements, the IPA believes it should not impose extra-statutory requirements without sound justification . . . [b]ut in reviewing Staff’s offered justifications, Staff readily concedes that this information is irrelevant to understanding the cost-effectiveness of individual energy efficiency programs proposed for approval. Further, Staff makes no argument that this information is a) not available to it, b) not available to other parties, c) not otherwise reported through more appropriate proceedings or filings, or d) could not be reported by the utilities should they elect to do so. Instead, its thin rationale for a new, extra-statutory, prescriptive requirement is merely that the resulting Plan would be “transparent and auditable” without any explanation of who would “audit” the IPA’s annual Plan and under what authority, let alone how requiring reporting an estimate of expected utility administrative costs would aid in any audit process. And while the IPA agrees that transparency is generally a laudable goal, this requirement would not create transparency around known information; it would simply require the reporting of best guess estimates that may prove inaccurate,

introducing potential confusion with little corresponding benefit. As a result, Staff's proposal should be rejected.

IPA BOE at 2 (citing IPA Resp. at 10-11). For these reasons and those set forth in ComEd's BOE, the Proposed Order should be revised to reject Staff's proposal.

II. REPLY TO THE RENEWABLES SUPPLIERS – SECTION 8.3: USE OF HOURLY ALTERNATIVE COMPLIANCE PAYMENTS HELD BY THE UTILITIES (SEC. IV.A OF PO)

The Proposed Order correctly rejected the Renewables Suppliers' proposal to make distributed generation ("DG") renewable energy credit ("REC") contract payments subordinate to the use of the hourly ACP funds held by utilities to purchase curtailed long-term power purchase agreement ("LTPPA") RECs. PO at 25-26. On exceptions, the Renewables Suppliers' renew their request for preferential access to the hourly ACP funds. Renewables Suppliers BOE at 6-13. However, as explained by the Proposed Order, the IPA, Environmental Law & Policy Center, Staff, and ComEd, the Renewables Suppliers' proposal would only benefit the Renewables Suppliers, and would frustrate the other goals and purposes of the Plan.

ComEd agrees with Staff and the IPA that the Renewables Suppliers presumably priced the risk of any curtailments into their bids and were aware of the risk of curtailments noted in the contracts. Staff Resp. at 6; IPA Resp. at 6 n.4. Such contractual provisions were fully vetted prior to, during, and after the docketed proceeding that approved such contracts. ComEd also agrees with Staff that adding curtailment provisions to future DG REC contracts would likely reduce participation, or possibly lead to higher bid prices due to perceived funding risk. Staff Resp. at 7. Finally, past procurement proceedings that approved the use of ACP funds for curtailed LTPPAs were not intended to apply to future procurement events, but only to the specific years referenced in those proceedings. *Id.* at 5-6.

In sum, following the same process for REC purchases as outlined in the previously approved procurement plans does not disadvantage the Renewables Suppliers. ComEd and Ameren will continue to be able to meet all of their contractual obligations in the LTPPA contracts as they have done in the past. The Commission should thus decline to adopt the exception of the Renewables Suppliers.

CONCLUSION

The Commission should issue a final Order based on the law, ComEd's Brief on Exceptions, and the arguments made herein.

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Respectfully submitted,

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