REPLY COMMENTS ON THE 2009 PROCUREMENT PROCESS PURSUANT TO SECTION 16-111.5(o) OF THE PUBLIC UTILITIES ACT

PRESENTED TO

THE ILLINOIS COMMERCE COMMISSION

by

BOSTON PACIFIC COMPANY, INC.

Craig R. Roach, Ph.D.
Miguel Campo
Andrew Gisselquist
Boston Pacific Company, Inc.
1100 New York Avenue, NW, Suite 490 East
Washington, DC 20005
Telephone: (202) 296-5520

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Boston Pacific Company, Inc. (“Boston Pacific”) appreciates the opportunity to submit these reply comments in response to the Illinois Commerce Commission’s (the “Commission’s”) request for comments concerning the Spring 2009 Electric Procurement Events.[1] In our reply comments we only focus on a select subset of comments that we believe deserve to be highlighted, discussed or in some cases clarified.

Procurement of RECs under Long-Term Contracts: AWEA and eight wind project developers comment in favor of long-term REC procurements, arguing that soliciting RECs one year at a time “is leading to greater price volatility, potentially relatively higher REC prices (especially in the long-term), and additional challenges in financing new wind energy projects.” As a solution they propose a balanced portfolio of long (greater than 5 years), medium (one to five years), and short-term (one year or less) contracts.

We do not oppose the basic notion that long-term REC contracts make financing a renewable facility easier. However, we point out that it may be complicated to implement such procurements within the specification of the current Act. First, the Act specifies a set of priorities for wind RECs and RECs from Illinois and Adjoining states. Evaluating RECs procured under a range of terms make it difficult to apply these priorities if it is determined that the priorities must be upheld for the RECs in each year’s supply. A further complication arises from the fact that the Act specifies certain changes in the REC priorities to be applied for future years. For example, the higher preferences given to Illinois RECs above Adjoining state RECs will disappear after the 2010 procurement. Second, the Act now specifies that a budget cap should be established each year, accounting for the previous full service year’s electricity cost. There is no provision in the Act for setting budget caps that would apply for RECs to be procured for future years.

The Public Utilities Act provides an opportunity to evaluate REC procurements. REC procurement, per the Act, is scheduled to be reviewed by the Commission, for a report to the General Assembly, no later than June 30, 2011.[2] Given the complexity of implementing long-term REC contracts under the current process, AWEA’s comments should be considered as part of this overall analysis of REC procurements.

[1] *Public Notice of Informal Hearing (Request for Comments) Concerning the Spring 2009 Electric Procurement Events Which Were Held On Behalf of Commonwealth Edison Company and the Ameren Illinois Utilities (Ameren-CILCO, Ameren-CIPS, and Ameren-IP)*, Issued 5/15/2009.
[2] Illinois Power Agency Act at 1-75(c)(2)(E)

Also, as there may be benefits to such a review of REC procurement, the review process could begin earlier than 2011 so that any suggested changes can be properly vetted. The analysis should also take into account the observed outcomes from the REC RFPs conducted to date and whether these have met the objectives set out in the Act.

Price comparison of blocks of energy to full-requirement products: One role of the Procurement Administrator and Monitor is to opine on whether prices received are reasonable. One tool used to check prices for energy products is the market-based benchmark. We work carefully to check that the energy prices that will be paid by Illinois ratepayers are reasonable compared to prices in broader wholesale market.

However, comments received from the Attorney General, that prices in recent auctions have been more consistent with market prices than were prices in the 2006 auctions, should be clarified. First, it must be noted that the 2006 auction procured a different, higher-value product than this year's RFP, full-requirements electricity supply. As such, the 2006 price of full requirements supply included costs for providing capacity, energy and ancillary services needed to serve load, as well as bidder responsibility for assessing and managing load variability risks. In contrast, the 2008 and 2009 RFPs procured individual blocks of energy (and capacity and RECs under separate RFPs). Consequently, a comparison to NYMEX future energy prices would result in a higher difference for the 2006 Auction than for the 2008 and 2009 RFPs, if no adjustments are made to take account of the fact that in 2006 a higher value product was acquired. The Attorney General's comments last year made a similar comparison, and Boston Pacific issued reply comments in that instance as well.

As one example of the difference between full requirements supply and block energy, note that due to the cost of matching up supply with actual load, a process called load-shaping, winning prices in RFPs for block energy products tend to be below what the utilities actually end up paying for energy, while that is not the case for the full-requirements product solicited in 2006. Energy demand fluctuates day-to-day and within days, so a block of energy at a constant number of MW will need to be supplemented with market purchases and sales to match output with demand. These market interactions will tend to raise the price of electricity. This follows from a simple line of reasoning about matching supply to demand, which is called load-shaping. The block energy solicited in these RFPs is an estimate of average demand for a month. When demand is higher than this average, as it will be at some point in a month, and the utility must go to the market to purchase additional energy, prices will tend to be high because less efficient units will have to be switched on to meet this higher demand.

When demand is lower than this average, and the utility must sell energy in the market, prices will tend to be low because only the more efficient units will be needed to meet this lower level of demand. Thus, load-shaping block energy products tends to cause utilities to buy high and sell low, increasing costs above the price of block energy.

Because the block energy product solicited does not account for the entire cost of electricity, Boston Pacific recommends a full accounting of the costs that ratepayers face.

Allow limited bid packages/combinations in Ameren's energy procurements: We agree with Constellation's comment that bidders should be allowed to bid packages or combinations of months, rather than just a "monthly block only" option. Something akin to what ComEd solicited this year – monthly products with a limited number of combinations of monthly products, such as are seen in the market – appears to be practical.

For example, if products are offered in combinations that are also traded on broader wholesale markets, a bidder can bid a full annual strip or a seasonal strip, and hedge its risk with market products. Constellation says that hedging single-month products is more difficult, and may be impossible, which makes bids for such products more expensive. We believe this is a valid comment that should be considered when developing the procurement plan for next year.

Note that there remains reason to solicit single-month products in addition to limited combination products. Soliciting single-month products in addition to combination products helps align solicitations more exactly with load forecasts than soliciting combination products only. Additionally, if bidders are somehow able to more cheaply supply single-month products than combination products, this choice of products solicited allows them to do so.

Consistency in credit requirements and credit support documents: Boston Pacific agrees with Staff's comment about eliminating credit requirement differences in the energy and capacity contracts wherever possible, and that both REC RFPs should have identical credit requirements. In addition, we believe that a good step towards standardizing contracts would come from Staff's suggestion to use identical credit support documents across all RFPs.

REC RFP collateral requirements: As Staff pointed out, one difference between ComEd and Ameren's REC RFPs was the amount of collateral required. We support Staff's recommendation to have REC collateral requirements determined by a percentage of remaining contract value. Ameren required a simple 10% of the remaining contract value, while ComEd required $5 per undelivered REC. We share Staff's concern demonstrated by the example that a flat $5 fee would seem disproportionately high for an Other State Non-Wind REC whose 2008 load average weighed price was $4.25. At the same time, we realize that the specific collateral percentage (whether 10% or some other number) should remain open to future discussion.

Time between bid day and bidder notification: Boston Pacific seconds Constellation's and Levitan's acknowledgments that parties shortened the time period between bid day and Commission review from two days last year, which is allowed under the Public Utilities Act, to just one day. This may have reduced prices received somewhat from what they otherwise would have been. However, further reductions in time would be difficult to achieve without jeopardizing the quality of the post bid report that the Act specifies should be submitted to the Commission by the Procurement Monitor.

Constellation comments that shortening the amount of time between submission of bids and when bidders hear whether they have won any supply will lower prices, and that one helpful step is to tell bidders on bid day, after bids have been evaluated, whether any of their bids will be recommended to the Commission as winning bids. If bidders see a benefit in hearing this information, we see no harm in providing it to them, as ComEd did this year. Bidders must understand, however, that such notice – or lack of notice – does not guarantee that any of that bidder's bids will or will not, in the end, be approved by the Commission as winning bids. All bids should still be required to remain open until the Commission has issued its final decision.

Schedule: Staff's comments lay out specific schedules for creating the procurement plan, including hiring a consultant to create the plan, and for hiring the Procurement Administrator(s). Boston Pacific supports these proposed schedules.

Note also that ComEd and Levitan supported some version of a specific or expanded schedule. ComEd commented that specific schedules, with set dates for each event, would help parties be clear when filing dates are, to better prepare. Levitan commented that additional time in the schedule would allow bidders more time to prepare, comment on draft documents, review comments, and give more time for LOC issues to be handled.

Single Procurement Administrator: We agree with Staff that a single Procurement Administrator can help to standardize processes and products, and avoid scheduling conflicts. Before considering this approach, there should be assurances that any single Procurement Administrator would have enough time to conduct each of the five procurements. That is, that the procurements would be spread farther apart than they were this year, as is suggested in Staff's schedule. Similarly, a single Procurement Administrator should ensure that it has sufficient available resources to handle procurements for two utilities.