

**Reply Comments of Constellation Energy Commodities Group, Inc.
Concerning Recent Procurement Events Held On Behalf of
Commonwealth Edison Company and the
Ameren Illinois Utilities (Ameren-CILCO, Ameren-CIPS, and Ameren-IP)**

Constellation Energy Commodities Group, Inc. (“Constellation”) appreciates this opportunity to respond to initial comments regarding the recently conducted Illinois procurement events. Constellation’s reply comments address certain recommendations made by the Staff of the Illinois Commerce Commission (“Commission Staff”), Procurement Monitor Boston Pacific Company, Inc. (“Boston Pacific”), Procurement Administrator for the Ameren Illinois Utilities Levitan & Associates, Inc. (“Levitan”), the Office of the Attorney General of the State of Illinois (“AG”), Commonwealth Edison Company (“ComEd”) and the combined filing of Acciona Energy North America Corporation, American Wind Energy Association, Broadwind Energy, Inc., Horizon Wind Energy, Iberdrola Renewables, Inc., Invenergy Wind LLC, Midwest Wind Energy, LLC, Suzlon Wind Energy Corporation, and TradeWind Energy LLC, collectively (the “Wind Developers”), relating to the following general topics:

- Competitiveness of the results;
- Schedule for future procurement events;
- Data and forecast updates;
- Standardization; and
- REC procurements.

Constellation’s failure to address any specific recommendation in these reply comments shall not be construed as either support for, or criticism of, any such recommendation.

Competitiveness of the Results

One of the keys to a successful competitive procurement is attracting a large number of qualified bidders. To that end, Boston Pacific's recommendation that the Commission reach out to bidders through a survey to keep up-to-date on their views of the process (Boston Pacific, p. 2) is well worth while. In order to continue the competitiveness of future procurements, and potentially expand the number of bidders and produce the most favorable outcome for consumers, the RFP process and terms must be structured to be transparent, minimize bidder risks, limit administrative burdens, and guarantee fairness. That is particularly important when prospective bidders have the opportunity to participate in a variety of competitive procurements throughout the country and must choose whether to participate in a particular solicitation and, if so, at what level. The Commission can, through the use of a survey or some other such forum, solicit and receive important feedback from actual and prospective bidders regarding potential improvements for the competitive procurements in Illinois. Such a process may ultimately serve as a "best practices" in that it will reflect what bidders have learned from their experiences in competitive procurement processes in other jurisdictions, as well.

Constellation also supports Boston Pacific's recommendation that the Illinois utilities annually provide a report to the Commission regarding the full cost of electricity service, including not only the competitive procurements conducted by the Illinois Power Agency (the "IPA"), but also the other products that are purchased in the market by ComEd and the Ameren Illinois Utilities that are necessary to serve retail electric load in Illinois. (Boston Pacific, p. 2) Because the amount and cost of those additional products vary each and every month, the true total cost of electric power is not well understood and likely unknown by consumers, the IPA, or the Commission. Although certain parties have noted the favorable

energy prices obtained in the most recent procurements, it is difficult, if not impossible, to meaningfully evaluate those results as compared with the prices that one could have obtained if a full requirements product had been utilized. Quantifying the full cost of electric utility service will better reflect the true cost of power, which will be instructive in evaluating the comparative value of those different products when developing products for future procurement cycles.

Schedule for future procurement events

Boston Pacific, ComEd, and Levitan have all proposed process improvements that are consistent with Constellation's desire that prospective bidders have better information and greater certainty. First, Boston Pacific and Levitan recommend that the procurement process should start earlier in the year (Boston Pacific, p. 3; Levitan, p. 2), which would give prospective bidders more time in which to become acquainted with the process and provide a longer period for discussion and refinement of the master agreement and related documents. ComEd recommends that, once established, the schedule be made clear up front. (ComEd, p. 2) Constellation concurs with these recommendations, and would note that a longer period during which prospective bidders can review and comment on contracts (and submit applications) would be helpful for prospective bidders. Second, Levitan recognizes the risk premium associated with the length of time that bids must remain open and has suggested shortening it. (Levitan, pp. 2-3) Although the actual Commission approval date is crucial, as Constellation indicated in its initial comments, notification by the Procurement Administrator that a bidder was or was not to be included in bids that would be evaluated by the Commission is important, as well.

The AG has likewise made constructive suggestions for improvement to future competitive procurements. For instance, the AG recommends that the Commission

initiate workshops to address how best to incorporate demand response. (AG, p. 7) Thoughtful consideration to that segment could bring about benefits to the market, and Constellation would therefore support those efforts. The AG has also recommended that formal protocols be established involving communications from bidders or prospective bidders, indicating that the protocols put in place in connection with procurement events are insufficient. (AG, p. 9) If the recommendation is meant to restrict communications outside of the procurement events (from the posting of bidder information through contract execution), it is not explained or clear why the IPA should be restricted from freely communicating with or receiving communications from every available source. It would be unwise for the Commission to restrict the ability of the IPA to gather relevant information that would help inform the IPA and potentially improve future IPA competitive procurement processes. Instead, the Commission should encourage the IPA to utilize the expertise and knowledge that is possessed by a variety of market participants whether they be competitive electric suppliers, electric utilities, financial players, renewable developers, consultants and experts, or consumer or governmental representatives. However, to the extent that the AG is recommending that more specific communications protocols be established to govern the procurement events themselves, those more specific guidelines may be helpful for future Illinois competitive procurements. Competitive procurements in other jurisdictions often include detailed communications protocols governing prospective (and actual) bidders' communications with other entities during the procurement events as yet another means of ensuring the competitiveness of the procurement events.

Data and forecast updates

Both ComEd and Staff recommend that forecast and other data be updated closer in time to the procurement event, in order to provide prospective bidders with the best and most recent data. (ComEd, p. 1; Staff, pp. 4-5) Constellation agrees that historical data, including the “freshest” data available and clear documentation regarding how that information was derived, is most useful to prospective bidders in constructing their bids.

Standardization

Several parties noted the advantages in standardizing certain elements of the procurement process between and among the utilities. Some of the areas that initial comments addressed as being ripe for standardization include a single procurement administrator (Staff, p. 3), standardization of RECs (Boston Pacific, p. 5), and consistency in credit requirements and credit support documents, wherever possible (Staff, pp. 9-10). Along those lines, Constellation would note that standardization of the procurement applications themselves (ideally taking the form of a single application) would likewise decrease the administrative burden on all parties and should be considered for future procurement events. Relieving the administrative burden on prospective bidders permits those entities to focus more time and resources on the bid itself, which is where consumers realize the benefits of competition. Moreover, standardization relieves the administrative burden on the procurement administrator, the procurement monitor, and the Commission, as well. Constellation therefore supports standardization whenever possible and practical.

REC procurements

Boston Pacific acknowledges that clarification is needed surrounding NOx allowances, indicating that bidders have asked that question both last year as well as in

the most recent procurement cycle. (Boston Pacific, p. 5) As indicated in Constellation's initial comments, Constellation supports such clarification.

Constellation cautions against the use of long-term REC procurements of up to 30 years recommended by the AG and Wind Developers (AG, pp. 8-9; Wind Developers, pp. 3-7). Long-term contracts carry certain risks that will ultimately be borne by ratepayers. First, the probability of default increases over time. Those default risks would be borne by utilities and ultimately ratepayers. Second, quantity is another term that manifests a greater cost in longer dated transactions. Some of the comments of the Wind Developers themselves illustrate how entering into long-term contracts for RECs may not be in the interest of Illinois ratepayers.

...[t]here is not an ever-willing counterparty for RECs, like MISO and PJM are for energy... (p. 6)

As state REC markets evolve there may be opportunities for the IPA to engage in favorable contracts (e.g. landfill gas projects that may have originally contracted RECs for other state compliance requirements, but whose contracts are expiring, or future reductions in renewable energy project capital costs should they occur). *Id.*

The above suggests that the IPA may be in a superior bargaining position in the future for renewable resources, which dictates against long-term contracting. Third, based on the results of the most recent procurements, in which the IPA was able to obtain the full complement of RECs required using Illinois wind, at this point it appears that long-term contracts are unnecessary to stimulate Illinois wind development. Fourth, the future demand is unknown and carries the risk of over-procurement. Although the Wind Developers may prefer that the IPA and the Commission ignore those risks, the fact of the matter is that it is not in ratepayers' economic interest for a larger portion of the utilities' electric portfolio to come from higher priced wind resources than is statutorily required.

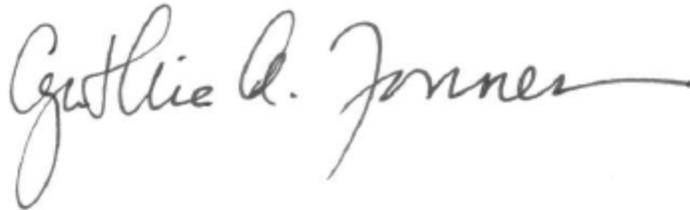
Moreover, the Wind Developers have mistakenly suggested that legislation currently awaiting the Governor's signature requires that the IPA conduct REC procurements on behalf of alternative retail electric suppliers. Customers in a number of jurisdictions have faced stranded costs associated with generating facilities that are no longer economically viable, and the IPA and the Commission should not repeat those mistakes by requiring Illinois ratepayers to bear the risks of long-term contracts for REC procurements.

Conclusion

Constellation recommends that future procurement plans and procurement events conducted by the Illinois Power Agency and evaluated by the Commission reflect these improvements to the procurement process.

Respectfully Submitted,

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