

Comments Concerning the
Spring 2009 Electric Procurement Process
pursuant to
Section 16-111.5(o) of the
Illinois Public Utilities Act

submitted to the
Illinois Commerce Commission

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Introduction

Levitan & Associates, Inc. (LAI) appreciates this opportunity to provide comments regarding the Spring 2009 electric procurement events in response to the request by the Illinois Commerce Commission (Commission) issued on May 15, 2009.

LAI served as the Procurement Administrator on behalf of the Illinois Power Agency for the Capacity, Energy, and RECs procurements for the Ameren Illinois Utilities. LAI's comments are based on our experience as the Procurement Administrator for both the 2008 and 2009 procurements and are focused on the Ameren Illinois Utilities procurements. Our comments include several observations regarding the 2009 procurement process as well as suggestions for future procurements.

Observations

Procurement Process – The three procurements for the Ameren Illinois Utilities resulted in the selection of bids that met all of the quantities sought for each product. Bidder participation and supplier diversity increased in 2009 relative to 2008 for each of the procurements. As shown in the table below, the total number of registered bidders increased from 2008 to 2009 and the number of successful bidders for each procurement also increased from 2008 to 2009.

	Registered Bidders		Successful Bidders	
	2008	2009	2008	2009
Energy	9	13	2	8
Capacity	12	12	7	12
RECs	5	22	4	14

Benchmarks – All of the 2009 procurements for the Ameren Illinois Utilities utilized market-based price benchmarks. The 2009 RECs Procurement utilized a market-based benchmark for the first time. As part of the 2009 procurement process, a benchmark price methodology was developed in conjunction with NERA Economic Consulting,¹ Boston Pacific,² and the Commission Staff. This benchmark methodology was approved for use in the 2009 Ameren Illinois Utilities RECs procurement by the Commission on May 15, 2009.

RECs Procurement Priorities – The 2009 RECs Procurement successfully met the wind and locational priorities specified in the IPA Act. The bid selection process gave priority first to RECs derived from qualified wind resources, up to the 75% wind target, then successively to RECs sourced in Illinois, adjacent states and other states, with the total cost of all selections subject to the 2009 Renewable Energy Resource Budget of \$16.6 million. These procurement priorities resulted in a higher average cost for RECs than

¹ NERA was the Procurement Administrator for the Com Ed procurements

² Boston Pacific was the Procurement Monitor for all of the 2009 procurements

would have been the case if the RECs procurement quantities had been filled without regard to the priorities.

RECs Sources – The 2008 procurement solicited only unit-specific RECs, that is, RECs derived from identified renewable generation projects. The 2009 procurement allowed bidders to submit unit non-specific REC bids, without identifying the source renewable generation units. This appears to have resulted in a broader participation of bidders for 2009 and more diversity in the selected successful bidders.

Bilateral Credit – Unlike 2008, in which both the Ameren Illinois Utilities and the bidders were required to post collateral, the 2009 procurements did not require the utilities to post reciprocal (bilateral) credit. There were three reasons for this change: (i) the regulated utilities typically have a low probability of contract default, (ii) the procurement results are explicitly approved by the Commission and (iii) the Illinois regulatory environment has stabilized. Thus, the utilities were not required to post performance assurance or provide a credit guaranty. The success of the 2009 procurements indicates that bilateral credit, which could have increased the utilities' and ratepayer costs, was not necessary for a successful procurement process in Illinois.

Suggestions

LAI provides the following suggestions for improving the procurement process:

- For the 2009 procurement process, only ten weeks elapsed between March 11th, when the Procurement Administrators were selected for 2009, and May 19th, when LAI submitted its Procurement Administrator's confidential bidding report to the Commission for the third and final procurement. While this period was sufficient to conduct the three procurements successfully, increasing the procurement time period would allow additional time for the prospective bidders to prepare for participation in the bidding. In particular, lengthening the process will allow bidders more time to comment on the draft contract documents and more time for these comments to be reviewed and considered by the utilities, procurement administrators, procurement monitor, and the Commission Staff. Increasing the length of the procurement process would also allow a longer period between bidder submission of the pre-qualification applications and the bidder registration date, which would give bidders more time to address letter of credit issues with their banks.
- In 2009 the Procurement Administrator, the Procurement Monitor, the Commission Staff, and the Commission worked diligently to minimize the time period between the bid submittal deadline and the approval of the recommended successful bidders by the Commission. Bidders incorporate a premium in their bid prices to account for potential adverse market movement between the time that their bid is submitted and the time they receive the notification of award, at which time the supplier can lock-in price hedges. This effect is greatest for the energy products since the energy market experiences the largest price volatility.

Any shortening of this time will reduce bidders' risk premiums and reduce the costs to the ratepayer for the products procured.

- The use of the RECs benchmark was successful and should be continued. The methodology used to develop the RECs benchmark should be reviewed by the IPA, the Commission Staff, the Procurement Monitor, and the Procurement Administrators on an ongoing basis so that the RECs benchmark can be improved for future procurements.
- In 2008, bidders in the Ameren Illinois Utilities procurements were awarded unsecured credit (collateral threshold) separately for the energy, capacity, and REC procurements. In 2009, the unsecured credit awards were made jointly for energy and capacity, so that if the combined market exposure for a bidder with both energy and capacity contracts exceeded the unsecured credit amount, then that bidder would have to provide collateral (in the form of cash, letter of credit, or other acceptable security). This simplifies the utilities' need to track credit calculations and collateral balances. We recommend that for future procurements unsecured credit continue to be awarded on a combined basis for energy and capacity.
- In 2009, as part of the information submitted by bidders for pre-qualification, LAI received financial statements from non-US corporate guarantors of prospective bidders that were prepared in accordance with recognized accounting standards in the UK, Europe, and Canada. After a considerable amount of research, the utilities, the Procurement Monitor, the ICC Staff, and LAI agreed to accept those financial statements. We suggest that such financial statements continue to be accepted in future solicitations.