

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Power Agency)
) ICC Docket No. 16-_____
Petition for Approval of the 2017 IPA)
Procurement Plan Pursuant to Section 16-)
111.5(d)(4) of the Public Utilities Act)

**THE ILLINOIS POWER AGENCY’S VERIFIED PETITION FOR APPROVAL OF
ITS 2017 PROCUREMENT PLAN PURSUANT TO 220 ILCS 5/16-111.5(d)(4)**

Pursuant to the authority granted by the Illinois Power Agency Act, 20 ILCS 3855/1-5, *et seq.*, and the Illinois Public Utilities Act, 220 ILCS 5/1-101, *et seq.*, the Illinois Power Agency (“IPA”) hereby submits to the Illinois Commerce Commission (“Commission”) for consideration and approval its proposed plan for the procurement of electricity for certain customers of Ameren Illinois Company (“Ameren Illinois”), Commonwealth Edison (“ComEd”), and MidAmerican Energy Company (“MidAmerican”) (collectively referred to as the “Utilities”) through the Electricity Procurement Plan for the period of June 2017 through May 2022 (the “Procurement Plan,” “2017 Plan,” or “Plan”) accompanying this petition. The 2017 Plan sets forth recommendations related to the procurement of electricity, capacity, associated transmission services, energy efficiency programs, and renewable energy credits to meet the load requirements and supply needs of eligible retail customers served by the Utilities. The Plan is designed to meet the statutory mandate “to ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability.” (220 ILCS 5/16-111.5(d)(4))

In accordance with Section 16-111.5(d)(3) of the Illinois Public Utilities Act (“PUA”), the Illinois Commerce Commission is required to enter its order confirming or modifying the

Procurement Plan on or before December 27, 2016.¹ The Illinois Power Agency respectfully requests that the Commission confirm and approve the Procurement Plan submitted contemporaneous with this Petition.

PROCEDURAL BACKGROUND

In accordance with Section 16-111.5(d)(2) of the PUA, and after timely receipt of the Utilities' load forecasts on or before July 15, 2016, the IPA posted its draft of the 2017 Procurement Plan to its website on August 15, 2016 (hereinafter the "Draft Plan"). (See 220 ILCS 5/16-111.5(d)(2)) Section 16-111.5(d) sets forth the process for commenting on the Draft Plan. Utilities and other interested parties were given thirty days following the date of the posting to provide comments to the IPA on the Draft Plan. Comments were required to be "specific, supported by data or other detailed analyses, and if objecting to all or a portion of the procurement plan, accompanied by specific alternative wording or proposals." (220 ILCS 5/16-111.5(d)(2)) The IPA had fourteen days following the end of the 30-day review period to revise the Draft Plan as necessary based on the comments and to file the final Plan with the Commission for posting on its website. (See 220 ILCS 5/16-111.5(d)(2)) The accompanying Procurement Plan represents that filing.

Following submission of the 2017 Plan, within five days, any person objecting to the Plan may file its objection with the Commission. (See 220 ILCS 5/16-111.5(d)(3)) As the IPA appreciates that aspects of the Plan may be complex and require technical analysis, that five day deadline presents a very tight turnaround for the development of objections. By making this petition on September 27, the Agency is filing its Plan one day earlier than statutorily required to give interested parties an additional day for the development of objections (as 5 days creates an

¹ Section 16-111.5(d)(3) requires that the Commission act on the Procurement Plan within 90 days after filing. Because 90 days later (December 26) is a Holiday, the Commission has until the following business day.

effective deadline of October 3, 2016 whether the Plan is filed on September 27th or September 28th).² Objections to the 2017 Plan are thus required to be filed with the Commission in the resulting docketed proceeding by Monday October 3, 2016, and any party needing to seek leave to intervene (a party other than Commission Staff, the IPA, the Attorney General, or an affected electric provider) should file a petition seeking leave to intervene prior to submitting objections.

COMMENTS ON THE DRAFT PLAN

As required by the Public Utilities Act, the IPA was required to hold at least one public hearing within each utility's service area for the purpose of receiving public comment on the Draft Plan. (*See* 220 ILCS 5/16-111.5(d)(2)) In accordance with that statutory provision, the IPA hosted three meetings for parties wishing to make public comments. These public hearings were held on September 6, 2016 in Springfield, September 7, 2016 in Chicago, and September 9, 2016 in Moline. As with many past years, no parties provided public comments at the three public hearings held by the IPA.

Written comments were received from Ameren Illinois, Carbon Solutions Group, Citizens Utility Board, ComEd, the Environmental Law and Policy Center, Exelon Generation, the Staff of the Illinois Commerce Commission, the Office of the Attorney General of Illinois, the Illinois Solar Energy Association (“ISEA”), ISEA’s Business Members, MidAmerican, the Natural Resources Defense Council, Power TakeOff, a collection of Renewables Suppliers, the Illinois Chapter of the Sierra Club, SRECTrade, and Wind on the Wires.³

The IPA genuinely appreciates the parties’ efforts in providing comments. While all comments were carefully considered by the IPA in developing the 2017 Procurement Plan, not

² This is because 5 days from September 27th would be Sunday October 2nd, making for an effective deadline of the next business day—October 3rd.

³ Comments received on the Draft Plan can be found on the IPA’s website:
<https://www.illinois.gov/sites/ipa/Pages/DraftProcurementPlanComments2017.aspx>

all proposals submitted for consideration were accepted. There are four primary areas where the IPA modified its Draft Plan in response to comments: (1) corrections to typographical errors, numbers, tables; (2) the capacity hedging strategy for Ameren Illinois for the 2019-2020 planning year; (3) structural changes to the proposed distributed generation renewable energy resources procurement; (4) to fully account for MidAmerican's dispatched generation without limiting it to the amount needed to serve load.⁴

I. Corrections to Typographical Errors, Numbers, and Tables

Several parties provided comments regarding the accuracy and presentation of numbers and text throughout the Draft Plan. Corrections and edits were incorporated to those aspects of the Plan, including typographical errors, clarifications, updates, and corrections to certain tables (such as the quantity of wind renewable energy credits under contract for ComEd, as suggested by the utility). These changes are reflected in a comparison document to be made available on the IPA's website, and the IPA appreciates the work undertaken by commenters in providing such a comprehensive and thorough review of the Draft Plan.

II. Ameren Illinois Capacity Hedging Strategy for 2019-2020 Planning Year

In its Draft Plan, the IPA proposed that the Agency *not* conduct a bilateral capacity procurement for Ameren Illinois for a portion of its 2019-2020 planning year's capacity requirements. In support of that approach, the Agency cited proposed changes to the MISO Planning Resource Auction ("PRA") intended to make the PRA better-suited to handle the needs of retail choice states (such as Illinois). The Agency thus proposed an approach similar to the

⁴ Other portions of the Plan featured clarifications, corrections, or other minor changes, including additional detail or explanation where appropriate and updated figures and numbers where available, and this pleading does not attempt to outline all such changes to the Plan. The IPA will post a document comparing the Plan filed for ICC approval and the Draft Plan to its website (www.illinois.gov/ipa).

uncontested approach taken with ComEd, through which the utility's capacity requirements are met exclusively through the regional transmission organization's capacity auction.

Several parties offered comments on this approach, and while no commenter suggested *adding* an Ameren Illinois bilateral capacity procurement for the 2019-2020 delivery year, all comments concluded that given the uncertainty around changes to the MISO PRA, any decision by the Agency to rely exclusively on the MISO PRA may be premature. The Agency agrees. In proposing that no 2019-2020 Ameren Illinois bilateral capacity procurement event occur under its 2017 Plan, the IPA's intention was not to foreclose proposal of a procurement in its 2018 Plan—by which point any pending or adopted changes to the MISO PRA should be more clear with consequences better understood. As the Draft Plan stated a more affirmative case for not conducting a bilateral capacity procurement, the Agency has revised that discussion to make clear that it seeks deferral of that decision to its 2018 Plan.

III. Distributed Generation Procurement

In an effort to increase participation beyond the limited participation in prior distributed generation procurements, the Draft Plan proposed several structural changes to the distributed generation procurement process (some of which mirrored the IPA's more successful supplemental photovoltaic procurement process) and actively sought feedback from parties about these changes and for any other proposals. For the filed Plan, the Agency has adopted a request from multiple commenters to stage the distributed generation procurement across two procurement events, with the exact timing of those procurements to be determined by the Agency at a later date depending on whether the Agency will be conducting a final contingency supplemental photovoltaic procurement and other factors.

IV. Uncap MidAmerican's Generation

In an effort to more accurately account for the value of MidAmerican's generation, the IPA sought and received comments in support of fully accounting for MidAmerican generation during the hours in which it is forecasted to be dispatched. The IPA is adopting this modification by removing a cap in MidAmerican's generation adopted under the 2016 Procurement Plan. In that Plan, MidAmerican's generation was capped at the amount needed to serve load or the amount of generation being dispatched, whichever was lower.

V. Proposals Not Accepted for Inclusion in the 2017 Procurement Plan

The IPA considered, but did not include, all suggestions made on the 2017 Procurement Plan. Select specific suggestions not adopted, and the basis for non-adoption, are addressed below:

A. Energy Efficiency Items

As noted in the Plan, the majority of contested issues in Docket No. 15-0541 concerned the approval of energy efficiency programs under Section 16-111.5B of the Public Utilities Act. On some issues, there are simply philosophical disagreements between parties. The scant guidance provided by a brief, two-page statutory provision leaves direction to the parties somewhat open-ended, and the relative newness of the provision (initially enacted as part of the Energy Infrastructure and Modernization Act in 2011 and revised the next year) has left some language in that provision untested. This has led to competing interpretations between parties and annual requests for Commission direction on contested matters.

The IPA recognizes that some parties – primarily, although not exclusively, Ameren Illinois and Commission Staff – simply see certain things differently than the Agency, and those differences become manifest in requests to change the Procurement Plan accordingly. While the IPA genuinely respects and appreciates the feedback these parties have provided and has made

clarifying revisions where appropriate, the filed 2017 Plan ultimately represents the approach taken by the Illinois Power Agency consistent with its view of the best approach to developing its procurement plan and its interpretation of governing law. Because certain suggested changes reflect an interpretation of Section 16-111.5B with which the Agency ultimately disagrees, those changes are not part of the filed Plan.

In seeking clarification on acceptable contract terms and conditions for energy efficiency-related contracts, ComEd's comments included the submittal of six contract templates with a request that the Draft Plan be revised to include those templates for Commission review and approval. While the Agency understands ComEd's desire for clarity on acceptable terms and conditions, procurement plan approval proceedings are 90-day dockets during which a multitude of issues are considered. In deferring total resource cost test methodology issues workshops, the Commission has previously recognized that "[a] significant problem with procurement proceedings is the expedited schedule combined with a relatively large number of contested issues and parties," thus making it "difficult for the Commission to deal with complex economic issues" in these proceedings.⁵ While contract templates may not present "complex economic issues," opening up all terms and conditions of each contract template to litigation does add additional layers of review and analysis to an already time-constrained proceeding. Given that general guidance from the Commission in combination with the identification and resolution any specific, discrete concerns should achieve the same ends, the IPA felt it was unnecessary to attach ComEd's contract templates to its file Plan.⁶

⁵ Docket No. 14-0588, Final Order dated December 17, 2014 at 224.

⁶ The Agency would also prefer that if energy efficiency contract templates were to be considered for approval by the Commission, that process would apply to all participating utilities (and thus extend to Ameren Illinois as well), and the Agency has not sought or received similar templates from Ameren Illinois.

A company named Power TakeOff had submitted two bids to ComEd in responsive to ComEd's request for proposal for energy efficiency programs under Section 16-111.5B of the PUA. Neither proposal was determined to be cost-effective. Upon being informed by ComEd that the proposals were not cost-effective and receiving information from the utility about ComEd's DSMore model used to model cost-effectiveness, the company was, in its words, "able to skillfully reengineer this new delivery design in a way that has enabled the company to lower the overall program cost," eliminating large portions of the proposed program while making no corresponding adjustments to projected program benefits (i.e., energy savings). This strikes the IPA as very problematic: if Power TakeOff could have proposed a program that operated significantly more efficiently, then that proposal should have been made in response to the RFP—and not in response to a determination that the program's benefits do not exceed its costs as structured. As the IPA has significant concerns both about inclusion of this program using new assumptions and the precedent this could set for other bidders, some of which might choose to bid with terms more favorable to the bidder and then use the Plan comment process as an opportunity to adjust those assumptions if required for cost-effectiveness rather than making the best possible initial bid, it did not include Power TakeOff's revised programs in the 2017 Plan.

B. Other Distributed Generation Procurement Changes

While adopting commenters' request to conduct multiple distributed generation procurements, the Agency did not elect to adopt certain other requested changes. For some requests, such as the introduction of a third system size category for bid selection or the use of "speculative bidding" for systems 25 kW and above in size, the IPA's experience with its supplemental photovoltaic procurements demonstrated that those adjustments should not be necessary. For other changes, such as the request for uniform contracts between all participating

utilities, the Agency agreed with the spirit of the request but concluded that adopting a firm requirement would be unworkable. And for changes to and simplification of forms and documents, those suggestions will be considered by the Agency during the development of materials in preparation for a distributed generation procurement event.

C. Full Requirements Procurement

One commenter, Exelon Generation, suggested that “the Draft Plan should be modified to use full requirements, load following (‘full requirements’) products.” Adoption of full requirements procurement was debated exhaustively in Docket Nos. 13-0546 and 14-0588 (the proceedings approving the Agency’s 2014 and 2015 Procurement Plans), with the Commission ultimately rejecting full requirements proponents’ arguments and concluding that “it is not inclined to consider future years’ full requirements procurement proposals absent new arguments supported by an analysis quantifying benefits to eligible retail customers.”⁷ In support of its proposal, Exelon Generation cited only a January 2008 study from Pennsylvania previously cited by Constellation Energy in comments on the IPA’s 2011 and 2012 Procurement Plans. As the IPA is not aware of any “new arguments supported by an analysis quantifying benefits to eligible retail customers” and maintains the same concerns about full requirements procurements articulated in prior procurement plans and associated proceedings, the Agency did not seriously consider adoption of full requirements procurement in the 2017 Plan.

While not all suggestions were included in its filed Plan, the IPA does not wish to foreclose development of issues for consideration in this proceeding or in developing future procurement plans. As such, the IPA welcomes additional discussion of issues that were not fully developed in the comments to date through the Commission proceeding.

⁷ Docket No. 14-0588, Final Order dated December 17, 2014 at 114.

V. Procedural Steps and Proposed Briefing Schedule

As discussed above, within five days of the filing of the Plan, any person objecting to the Plan may file an objection with the Commission.⁸ (*See* 220 ILCS 5/16-111.5(d)(3)) In addition, the Commission has ten days from the filing of objections to determine if a hearing is necessary.⁹ (*See* 220 ILCS 5/16-111.5(d)(3)) At this time, the IPA does not believe a hearing is necessary to consider or approve the 2017 Plan. As with past years, parties may file objections based on alternative policy recommendations or legal arguments, and the Commission may take those written objections into consideration in approving or modifying the Plan in accordance with its authority under Section 16-111.5 of the PUA. However, based on the comments that were submitted in response to the Draft Plan, the IPA anticipates that no hearing will be required.

In prior years, the presiding Administrative Law Judge has instituted a briefing schedule by issuing a Notice to all parties approximately one week after the commencement of the docket. For consideration of the 2017 Plan, the IPA proposes the following briefing schedule:¹⁰

- Responses to objections must be filed and served by October 21, 2016;
- Replies, if any, shall be filed and served by October 31, 2016;
- The expected date for the ALJ's Proposed Order is November 14, 2016;
- Briefs on Exceptions must be filed and served by November 21, 2016; and
- Reply Briefs on Exception, if any, must be filed and served by December 2, 2016.

This proposed schedule mirrors the schedule adopted in Docket No. 15-0541 (approving the 2016 Plan), but with each deadline occurring exactly one day later.

⁸ Objections to the Plan are due by October 3, 2016.

⁹ In the past, the Commission has interpreted Section 16-111.5(d)(3) as requiring a Commission determination 10 days after Objections are due (*See* Docket No. 12-0544, Notice of Administrative Law Judge dated October 10, 2012); if the Commission determines that this is the appropriate deadline, it must rule on a hearing by October 13, 2016.

¹⁰ Please be advised that counsel for the Agency will be out of the country beginning October 4, 2016 and returning October 17, 2016, and this proposed briefing schedule is structured, in part, to reflect his availability. Counsel apologizes for any inconvenience that this may cause the hearing officer and participating parties.

CONCLUSION

The Illinois Power Agency's 2017 Procurement Plan is consistent with the requirements of the Public Utilities Act and Illinois Power Agency Act, meets the needs of the customers it serves, and should be approved by the Commission. The IPA reserves the right to file responsive comments and any corresponding edits to its Procurement Plan, and respectfully requests the Plan's approval in this proceeding.

Dated: September 27, 2016

Respectfully submitted,

Illinois Power Agency

By: /s/ Brian P. Granahan

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STATE OF ILLINOIS)
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COUNTY OF COOK)

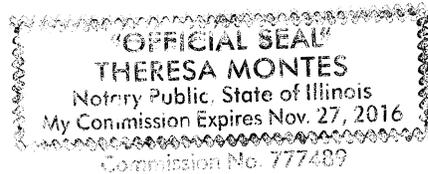
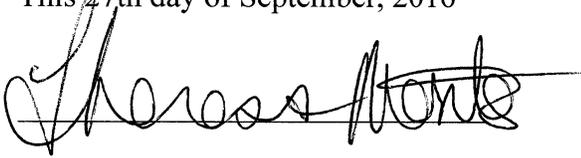
VERIFICATION

Anthony M. Star, being first duly sworn, on oath deposes and says that he is the Director for the Illinois Power Agency, that the above Verified Petition has been prepared under his direction, he knows the contents thereof, and that the same is true to the best of his knowledge, information, and belief.



Anthony M. Star

Subscribed and sworn to me
This 27th day of September, 2016



**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

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)	ICC Docket No. 16-_____
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Procurement Plan Pursuant to Section 16-)	
111.5(d)(4) of the Public Utilities Act)	

NOTICE OF FILING

Please take notice that on September 27, 2016, the undersigned, an attorney, caused the Illinois Power Agency’s Petition for Approval of the 2017 Procurement Plan Pursuant to 220 ILCS 5/16-111.5(d)(4), the 2017 Procurement Plan itself, and the appendices thereto to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission in a new proceeding:

September 27, 2016

/s/ Brian P. Granahan
Brian P. Granahan

CERTIFICATE OF SERVICE

I, Brian P. Granahan, an attorney, certify that copies of the foregoing document(s) were served upon the parties on the Illinois Commerce Commission’s service list as reflected on e-Docket via electronic delivery from 160 N. LaSalle Street, Suite C-504, Chicago, Illinois 60601 on September 27, 2016.

/s/ Brian P. Granahan
Brian P. Granahan