

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

Illinois Power Agency )  
 ) ICC Docket No. 18-\_\_\_\_\_  
Petition for Approval of the 2019 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 2019 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” or “Agency”) hereby submits to the Illinois Commerce Commission (“Commission” or “ICC”) for consideration and approval its proposed plan for the procurement of electricity for certain customers of Ameren Illinois Company (“Ameren Illinois”), Commonwealth Edison Company (“ComEd”), and MidAmerican Energy Company (“MidAmerican”) (collectively referred to as the “Utilities”) through the Electricity Procurement Plan for the period of June 2019 through May 2024 (the “2019 Plan” or “Plan”) accompanying this petition. The 2019 Plan sets forth recommendations related to the procurement of electricity, capacity, and associated transmission services to meet the load requirements and supply needs of eligible retail customers<sup>1</sup> 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))

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<sup>1</sup> “Eligible retail customers” are defined in Section 16-111.5(a) of the Public Utilities Act as “those retail customers that purchase power and energy from the electric utility under fixed-price bundled service tariffs, other than those retail customers whose service is declared or deemed competitive under Section 16-113 and those other customer groups specified in this Section, including self-generating customers, customers electing hourly pricing, or those customers who are otherwise ineligible for fixed-price bundled tariff service.” (220 ILCS 5/16-111.5(a))

In accordance with Section 16-111.5(d)(3) of the Illinois Public Utilities Act (“PUA”), the Commission is required to enter its order confirming or modifying the Plan on or before December 27, 2018. The IPA respectfully requests that the Commission confirm and approve the Procurement Plan submitted contemporaneously 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, 2018, the IPA posted its draft of the 2019 Procurement Plan to its website on August 15, 2018 (hereinafter the “Draft Plan”). (*See* 220 ILCS 5/16-111.5(d)(2)). 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, with such comments 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 Plan with the Commission. (*See* 220 ILCS 5/16-111.5(d)(2)). The accompanying Plan represents that filing.

Following submission of the 2019 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)). Objections to the 2019 Plan are thus required to be filed with the Commission in the resulting docketed proceeding by Wednesday October 3, 2018, and any party seeking to appear or intervene should do so prior to submitting objections.

### **COMMENTS ON THE DRAFT PLAN**

As required by the PUA, the IPA was required to hold at least one public hearing within each utility's service area to receive public comment on the Draft Plan. (*See* 220 ILCS 5/16-

111.5(d)(2)). These public hearings were held on September 5, 2018 in Moline and Springfield and on September 6, 2018 in Chicago. 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 Company, MidAmerican Energy Company, the Staff of the Illinois Commerce Commission, Coles Together, and Mattoon Power Enterprises LLC.<sup>2</sup> The IPA genuinely appreciates parties' efforts in providing comments and in offering a thoughtful analysis of the Agency's Draft Plan. Concerning the comments themselves, Ameren Illinois offered supportive comments suggesting no changes, while MidAmerican and the Staff of the Illinois Commerce Commission offered minor changes that were adopted in the filed version of the Plan. Mattoon Power Enterprises LLC and Coles Together offered comments supportive of either "a competitive clean coal procurement" or "to include a provision for procurement of electricity generated by clean coal facilities." For the reasons explained below, the IPA does not propose a targeted procurement to obtain sourcing agreements from "clean coal" facilities as part of its 2019 Plan.

As an initial matter, it not clear whether Section 1-75(d) of the Illinois Power Agency Act ("IPA Act" or "the Act") bestows the IPA with statutory authority to facilitate the execution of sourcing agreements with a "clean coal facility" other than the "initial clean coal facility" (the procurement requirements for which are referenced throughout Sections 1-75(d)(1)-(4) of the Act) or the "retrofit clean coal facility" described in Section 1-75(d)(5) of the Act.<sup>3</sup> Based on prior discussions with the project's advocates, the proposed Mattoon project would not meet the "initial"

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<sup>2</sup> Comments received on the Draft Plan can be found on the IPA's website: <https://www.illinois.gov/sites/ipa/Pages/Plans-Under-Development.aspx>.

<sup>3</sup> Other sections of the Act likewise offer authority for sourcing agreements from the "clean coal SNG facility" (20 ILCS 3855/1-58) and a distinct "clean coal SNG brownfield facility" (20 ILCS 3855/1-78).

or “retrofit” definitions. While Section 1-75(d)(1) does provide that “procurement plans shall include electricity generated using clean coal” and sets forth a “goal . . . that by January 1, 2025, 25% of the electricity used in the State shall be generated by cost-effective clean coal facilities,” it provides no mechanism for the procurement of sourcing agreements from “clean coal facilities” other than the two delineated clean coal project types—something that the Commission considered “a barrier to evaluation” in assessing a proposal by these same advocates four years prior.<sup>4</sup> As the IPA’s charge otherwise is to procure “standard wholesale products” (such as non-source-specific block energy products) to meet the supply requirements of eligible retail customers at the “lowest total cost over time, taking into account any benefits of price stability” (see 220 ILCS 5/16-111.5(b)(3)(iv); 220 ILCS 5/16-111.5(d)(4)), procuring source-specific power purchase agreements from a “clean coal facility” at an above-market price requires express statutory authorization than found in Section 1-75(d)(1) of the IPA Act.

But even assuming Section 1-75(d) offers sufficient authorization, any “clean coal facility” sourcing agreements considered under the general provisions of Section 1-75(d)(1) would run only between the facility owner and participating electric utilities (for use in providing electric supply only to their eligible retail customers), with no mechanism to bind alternative retail electric suppliers to purchase or pay for the output of the facility. Absent express authority to the contrary, the IPA develops its annual procurement plan and conducts procurement events to meet the supply requirements of the utilities’ eligible retail customers—and not the customers of alternative retail

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<sup>4</sup> Specifically, the Commission stated the following regarding the provisions of Section 1-75(d): “Assuming for the moment that the proposed Sargas facility qualified as a clean coal facility under Illinois law, there is essentially no discussion of how the IPA or the Commission would develop or evaluate a sourcing agreement with such a clean coal facility. This is in stark contrast to the detailed explanation of the requirements for, the approval process, and associated sourcing agreements associated with the initial clean coal facility and the re-powered and retrofitted coal power plants previously owned by Illinois utilities which qualify as clean coal facilities. The Commission finds this lack of detail a barrier to any evaluation.” (Docket No. 14-0588, Final Order dated December 17, 2014 at 314).

electric suppliers.<sup>5</sup> Unlike with a “retrofit clean coal facility” under Section 1-75(d)(5) of the Act (for which “sourcing agreements with utilities and alternative retail electric suppliers” are expressly mentioned), the IPA lacks authority to assess such costs to customers of alternative retail electric suppliers (which constitute the majority of retail customer load, as described in part in Chapter 3 of the Plan) or customers taking hourly pricing service from an electric utility.

As a consequence, the rate impact cap applicable to potential sourcing agreements with the proposed Mattoon facility results in a significantly smaller available budget than for the FutureGen 2.0 project previously proposed under Section 1-75(d)(5) (the “retrofit clean coal facility” provision) of the Act, as the Mattoon project’s potential budget may be calculated using only “eligible retail customer” load. Based on utility load forecasts, the IPA projects that the following clean coal portfolio standard funds could be available to support the Mattoon facility under Section 1-75(d)(2)’s rate impact cap:

**Table 1. Available Funds for Above-Market Payments to a Clean Coal Facility (“CCF”)**

	2023-2024 Delivery Year	
	Base Case	Low Case
Projected Eligible Retail Customer Sales (MWh)	29,780,033	24,265,078
Section 1-75(d)(2)(E) Rate Cap (\$/MWh)	2.28	2.28
Available Funds for Above-Market Payments (\$)	67,882,297	55,311,195

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<sup>5</sup> Rather than offering authority to bind retail electric suppliers or their customers, Section 1-75(d)(2) instead expressly provides that the “total amount paid” under any such sourcing agreements “shall be reduced by an amount necessary to limit the estimated average net increase due to the cost of these resources included in the amounts paid by *eligible retail customers*” to “to no more than the greater of (i) 2.015% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009 or (ii) the incremental amount per kilowatthour paid for these resources in 2013. (20 ILCS 3855/1-75(d)(2)(E)).

**Table 2. Maximum Net Increase in Energy Supply Price Applicable to Proposed Mattoon CCF**

	2023-2024 Delivery Year	
	Base Case	Low Case
Assumed Mattoon CCF Capacity (MW)	77	77
Assumed CCF Capacity Factor (%) <sup>6</sup>	80%	80%
Assumed Mattoon CCF Energy Output (MWh)	539,616	539,616
<b>Maximum CCF Price Increase Allowed (\$/MWh)</b>	<b>\$125.80</b>	<b>\$102.50</b>

These represent the maximum cost increases possible under sourcing agreements in the utilities' base case and low case (i.e., heavier customer switching and/or load decline) load forecast scenarios. To derive the maximum price per megawatt-hour that could be paid to a clean coal facility, the \$125.80 (base case) or \$102.50 (low case) figures in Table 2 above must be added to the expected default supply rate that eligible retail customers would otherwise pay for all of their load in the absence of the posited clean coal procurement; these default supply rates will range around \$30 in near-term delivery years prior to 2023-2024, based on the recently completed block energy procurements. And this is merely a snapshot for the first year in which the facility could potentially be operational; if future years feature more significant customer migration or load decline, the budget available to support sourcing agreements with such a facility would likewise decline.

While advocates for the Mattoon project have not provided any sourcing agreement cost estimates to the IPA, other "clean coal facilities" have been proposed in Illinois and elsewhere, and a review of those facilities' estimated cost structures may be instructive. According to the Commission's 2010 Taylorville Energy Center facility cost report,<sup>7</sup> that facility carried a projected base case electricity cost of \$212.73 per MWh—and that was for a 602 MW facility featuring just

<sup>6</sup> The 80% capacity factor used in this analysis may be optimistic; the 2010 Taylorville Energy Center facility cost report described below produced by the Commission utilized a 70% capacity factor for its cost analysis.

<sup>7</sup> See <https://www.icc.illinois.gov/downloads/public/1%20TEC%20Report.pdf>.

over 50% of carbon capture and sequestration (unlike the 90% that would be required from the Mattoon facility, under Section 1-10 of the Act). More recently, Lazard's Levelized Cost of Energy Analysis - Version 11.0 (November 2017) estimated that a new commercial coal-fired power plant with 90% carbon capture could feature an estimated levelized cost of electricity of approximately \$143/MWh—but for a 600 MW plant and without costs of CO<sub>2</sub> transportation to an end user or to sequestration included in the estimate.

The most comparable proposed clean coal facility may be the FutureGen 2.0 facility, as that facility was significantly smaller (~200 MW) than the above-referenced projects. The FutureGen 2.0 facility was estimated to require revenues of \$257.85/MWh<sup>8</sup> through a sourcing agreement—and that was *with the benefit of over \$1 billion in federal financial support*, with over half of the project's estimated costs paid through the American Recovery and Reinvestment Act.<sup>9</sup> Despite the successful execution of sourcing agreements developed using a significantly larger budget, the FutureGen 2.0 project collapsed upon the withdrawal of federal support as the project was no longer financially viable without it.

Given the above estimates and the lack of cost information from the Mattoon project's advocates, the IPA believes that a competitive procurement to seek sourcing agreements is highly unlikely to feature a budget sufficient to successfully support the development of this project or a similar project. There would be a strong likelihood that, even if the procurement process resulted

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<sup>8</sup> See <https://www.icc.illinois.gov/downloads/public/edocket/353259.pdf>; the \$257.85/MWh estimate was developed without accounting for potential market energy revenues, and with estimated market energy revenues included, the levelized net cost to load was estimated to be \$205.71/MWh.

<sup>9</sup> By comparison, the IPA's most recent block energy procurement process resulted in block energy prices generally ranging from \$20-\$35/MWh (depending on delivery year, delivery month, on-peak vs. off-peak, and counterparty utility)—many times lower than the estimated cost of electricity from clean coal facilities. (See [https://www.ipa-energyrfp.com/?wpfb\\_dl=1773](https://www.ipa-energyrfp.com/?wpfb_dl=1773)). As the Commission pointed out in its June 2015 Report to the Illinois General Assembly Concerning Spending Limits on Electricity Generated by Clean Coal Facilities, “even if market prices were to increase by 12% per year, every year for 20 years, they would still be lower than the estimated average cost of FutureGen 2.0's electricity output.” (Report at 11).

in the execution of sourcing agreements, facility construction would never be completed and contract deliveries would never commence. As such a procurement would likely be fruitless absent new statutory authorization to leverage additional funding, the IPA believes that devoting the considerable time and administrative expense associated with such a procurement would be a poor use of the Agency’s budget and resources.<sup>10</sup>

The IPA also has concerns about the maturity of this proposed project, as commenters offered no information on the project’s status. The IPA’s competitive procurements for unit-specific resources have traditionally required information about project maturity to evaluate the seriousness of any proposal. Milestones have included site control or ownership, signed interconnection agreements, confirmation of project size, and other information to show that the project would indeed be developed should it successfully bid. With respect to clean coal facilities, the IPA proposed the following criteria for project evaluation in its filed 2012 Procurement Plan:<sup>11</sup>

**GENERALIZED SPECIFICATIONS FOR CLEAN COAL CANDIDATES**

Item	Criteria
<b>Clean Coal Facility Site Control</b>	Executed option agreement(s) or ownership for all property rights necessary to construct the clean coal facility Note the additional requirements for CO <sub>2</sub> storage rights below.
<b>CO<sub>2</sub> Storage Rights</b>	Executed option agreement(s) or ownership of sufficient pore space in the Mount Simon deep saline geologic storage formation to support at least 20 years of CO <sub>2</sub> storage or for the duration of the proposed Power Purchase Agreement, whichever is greater.
<b>Environmental Impact Statement (EIS)</b>	If applicable, demonstrate that a draft EIS, final EIS or Record of Decision has been issued by the appropriate federal agency

<sup>10</sup> In addition to the insufficiency of funding, the IPA also notes that socializing the above-market costs of a new generating facility across only residential and small commercial customers raises serious policy and fairness concerns.

<sup>11</sup> Docket No. 11-0660, IPA Filed 2012 Power Procurement Plan, September 28, 2011, at 60. During litigation, the IPA abandoned its proposal to include a clean coal solicitation (and by extension no longer proposed utilizing this project assessment criteria), and the Commission agreed with the IPA that no clean coal procurement should be conducted in its Final Order dated December 21, 2011.

<b>PSD (Air) Permit</b>	Demonstrate that a PSD (Air) Permit has either been issued, or an application has been filed with the Illinois EPA.
<b>Class VI Underground Injection Control (UIC) Permit</b>	Demonstrate that a the Class VI UIC Permit has been issued or an application has been filed with the United States EPA or other applicable agency
<b>Transmission Capacity or Interconnection Agreement</b>	Demonstrate available transmission capacity for the entire output of the facility or a completed Feasibility Study with Regional Transmission Operator or other agency as appropriate
<b>Engineering Design</b>	Demonstrate that a pre-Front End Engineering and Design (FEED) study for the clean coal facility has been completed.
<b>Carbon Capture Rate</b>	Consistent with the statute demonstrate a viable plan that provides for capturing and sequestering at least 50% of the total carbon emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation before 2016, at least 70% of the total carbon emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation during 2016 or 2017, and at least 90% of the total carbon emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation after 2017.
<b>Fuel Input</b>	Constituent with the statute >85% of thermal input must be coal, of which >50% shall have high value bituminous rank and greater than 1.7 pounds of sulfur per million Btu content
<b>Electricity Output</b>	>[85]% of thermal output must be electricity
<b>Project Sponsor(s)</b>	Demonstrate a viable plan for securing all of the necessary capital required to support the development, engineering, construction and startup and commissioning of the clean coal facility

Unfortunately, the Mattoon project advocates' comments offer no insight into the technical aspects of the project or how this project fares under these milestones; even the project size is inconsistent across the two comments (77 MW vs. 80 MW). This lack of project information may be of particular concern given that the Commission concluded in 2014 about this same proposal that "it is not clear to the Commission that the facility . . . qualifies as a clean coal facility under Illinois law." (Docket No. 14-0588, Final Order dated December 17, 2014 at 314). No additional information has been provided about this proposed project since.

Lastly, the IPA has concerns about the genuine competitiveness of any “competitive” clean coal procurement process. With the passage of Public Act 99-0906, the IPA has conducted or will conduct competitive procurement events to facilitate the development of thousands of megawatts of new wind and solar generation. The success of these procurements depends, in part, on the breadth of market interest, as that market interest results in increased competition to drive prices downward. By contrast, over the past 5 years, only the Mattoon project’s developers have approached the Agency about plans to develop a clean coal facility, and the Agency is aware of no other facilities that could qualify as a clean coal facility, as defined in Section 1-10 of the Act, for this proposed “competitive” procurement process. As genuine competition between multiple bidders is an important safeguard to ensuring that ratepayers’ funds are spent efficiently, the lack of broader interest in a clean coal procurement raises serious concerns.

For all foregoing reasons, the IPA is not proposing a clean coal-specific procurement event as part of its 2019 Plan. The IPA notes, however, that the proposed Mattoon facility or any similar facility may still participate in its competitive block energy or capacity procurements open to all other qualifying generating facilities.

## **PROCEDURAL STEPS**

As discussed in the Procedural Background section above, within five days of the filing of the Plan, any person objecting to the Plan may file an objection with the Commission.<sup>12</sup> (*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.<sup>13</sup> (*See* 220 ILCS 5/16-111.5(d)(3)) At this time, the IPA does

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<sup>12</sup> Objections to the Plan are thus due by Wednesday, October 3, 2018.

<sup>13</sup> In the past, the Commission has interpreted Section 16-111.5(d)(3) as requiring a Commission determination by 10 days after Objections are due (see, e.g., Docket No. 12-0544, Notice of Administrative Law Judge Ruling dated October 10, 2012, wherein the determination came 12 days after the filing of the annual procurement plan and 7 days after objections were due); if the Commission determines that this is the appropriate deadline, it must rule on a hearing by October 15, 2018 (as October 13 is a Saturday).

not believe a hearing is necessary to consider or approve the 2019 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.

### **PROPOSED BRIEFING SCHEDULE**

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 2019 Plan, the IPA proposes the following briefing schedule:

- Responses to objections must be filed and served by October 19, 2018;
- Replies, if any, shall be filed and served by October 29, 2018;
- The expected date for the ALJ's Proposed Order is November 13, 2018;
- Briefs on Exceptions must be filed and served by November 20, 2018; and
- Reply Briefs on Exception, if any, must be filed and served by November 30, 2018.

This proposed schedule largely mirrors the schedules utilized for prior annual procurement plan approval proceedings, including Docket No. 17-0392 approving the 2018 Plan and Docket No. 16-0453 approving the 2017 Plan.

## CONCLUSION

The Illinois Power Agency's 2019 Plan is consistent with the requirements of the Public Utilities Act and the IPA 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 Plan, and respectfully requests the Plan's approval in this proceeding.

Dated: September 28, 2018

Respectfully submitted,

Illinois Power Agency

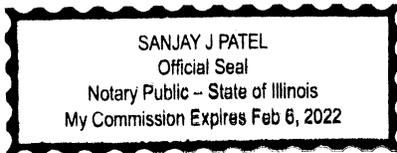
By: /s/ Sameer H. Doshi

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STATE OF ILLINOIS     )  
  )  
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 28th day of September, 2018

  
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**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

Illinois Power Agency	)	
	)	ICC Docket No. 18-_____
Petition for Approval of the 2019 IPA	)	
Procurement Plan Pursuant to Section 16-	)	
111.5(d)(4) of the Public Utilities Act	)	

**NOTICE OF FILING**

Please take notice that on September 28, 2018, the undersigned, an attorney, caused the Illinois Power Agency’s Verified Petition for Approval of the 2019 Procurement Plan Pursuant to 220 ILCS 5/16-111.5(d)(4), the 2019 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 28, 2018

/s/ Sameer H. Doshi \_\_\_\_\_  
Sameer H. Doshi