

REPORT OF COMMUNICATIONS WITH THE ILLINOIS POWER AGENCY

This form must be completed and submitted to the Illinois Procurement Policy Board within 30 days for each communication report required by 30 ILCS 500/50-39. Submit reports to:

PROCUREMENT POLICY BOARD
511 W. CAPITOL AVENUE, SUITE 102
SPRINGFIELD, IL 62704

Or you may send a signed, scanned copy via email with "IPA Communication Report" in the Subject line to: ppb@illinois.gov



Date of Communication: 11/26/2012 Time of Communication: 4:30 pm

Type of Communication:

- Telephone
- In Person
- Electronic (Email, Fax, Etc.) – Attach A Complete Copy of the Entire Communication String
- Written – Attach Copy
- Other

Initiator:

Initiator of Communication: Michael Strong
Representing: Illinois Power Agency
Location: Springfield IL
Email Address (if communication was via email) michael.strong@illinois.gov
Telephone Number (if telephonic): (312) 814-4635
Is this person a Lobbyist required to register under the Lobbyist Registration Act Yes No
Duration of Call or In-Person Communication: 50 minutes

Recipient(s): (If there are additional persons involved in the communication, attach an additional sheet that lists the other participants' names, job titles, which entity they represent, email address and/or telephone number, if applicable)

Recipient One Name: Kyle Barry
Recipient Title:
Representing: FutureGen Industrial Alliance
Location: Springfield, IL
Email Address (if communication was via email) kbarry@mwcllc.com
Telephone Number (if telephonic): 217-527-1282

Recipient Two Name:
Recipient Title:
Representing:
Location:
Email Address (if communication was via email)
Telephone Number (if telephonic):

Recipient Three Name:
Recipient Title:
Representing:
Location:
Email Address (if communication was via email)
Telephone Number (if telephonic):

If any of these additional participants are lobbyists required to register under the Lobbyist Registration Act, **they** must submit a written report to be submitted with this communications report to the Procurement Policy Board that memorializes the communication that includes, but is not limited to (i) the date and time of each communication; (ii) the identity of each person from whom the written or oral communication was received, the individual or entity represented by that person, and any action the person requested or recommended; (iii) the identity and job title of the person to whom each communication was made; (iv) if a response is made, the identity and job title of the person making each response; (v) a detailed summary of the points made by each person involved in the communication; (vi) the duration of the communication; (vii) the location or locations of all persons involved in the communication and, if the communication occurred by telephone, the telephone numbers for the callers and recipients of the communication; and (viii) any other pertinent information.

Communication Details:

Provide a detailed summary of the points made by each person involved in the communication:
See attached.

Was a response made? If so, complete the following for each person making the response (*attach an additional sheet that lists the other respondents' names, job titles, which entity they represent, email address and/or telephone number, if applicable*):

Respondent Name:

Respondent Title:

Location:

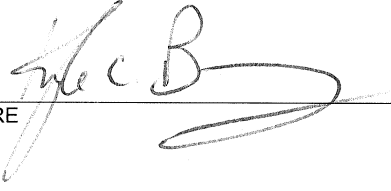
Telephone Number (if telephonic):

Provide a detailed summary of the response:

See Attached

Other pertinent information:

SIGNATURE

A handwritten signature in black ink, appearing to be "J. C. B.", written over a horizontal line.

DATE

Dec. 21, 2012

Addendum to Communications Report with Illinois Power Agency for November 26, 2012 Meeting

On November 26, 2012, Michael Strong, Chief Counsel for the Illinois Power Agency, met with a representative of the FutureGen Industrial Alliance at the Springfield office of McGuireWoods Consulting.

Meeting Participants:

Name	Employer	Party represented
Michael Strong	Chief Counsel, Illinois Power Agency	Illinois Power Agency
Kyle Barry	McGuireWoods	FutureGen Industrial Alliance

Summary of Substantive Content of Communication:

The participants discussed the following substantive matters/issues during the meeting:

- Mr. Strong asked whether the FutureGen Alliance had considered pursuing legislative options to complement the inclusion of the FutureGen Project's proposed sourcing agreement in the Illinois Power Agency's procurement plan. Mr. Strong asked whether the Alliance had considered asking the General Assembly to pass a resolution in support of the FutureGen Project. Mr. Strong indicated that the General Assembly had approved resolutions in favor of other clean coal projects. Mr. Barry indicated that the Alliance would take that idea under consideration; however, Mr. Barry also stated that the General Assembly had already passed two statutes in favor of the FutureGen Project. Mr. Strong also asked whether the Alliance had considered pursuing any legislation relating to a power purchase agreement for the FutureGen Project. Mr. Barry indicated that the idea had been considered, but that it was not the preferred option.
- Mr. Barry advised that Senator Durbin's and Senator Kirk's offices had prepared a joint statement in favor of the FutureGen Project that was read at the Nov. 20th Illinois Commerce Committee meeting. Mr. Barry also indicated that a representative from the AFL-CIO had spoken in favor of the project at the same meeting. Mr. Barry said the Alliance had discussed but elected not to ask any state legislators to speak at the ICC meeting.
- Mr. Strong and Mr. Barry discussed the arguments in the IPA plan proceeding relating to how the proposed sourcing agreement approval could be compared to the process used to produce long-term renewable contracts via Appendix K in the 2010 Plan. Mr. Strong advised that many of the parties were able to come to consensus on the basic terms of Appendix K, then final contracts were developed later. Mr. Strong distinguished Appendix K from the sourcing agreement on those grounds. Mr. Barry noted that the sourcing

agreement, on the other hand, was a much more fully developed contract than Appendix K. Mr. Strong asked whether it was possible for the Alliance to reach additional consensus on the terms of the proposed sourcing agreement. Mr. Barry advised that the Alliance had been discussing contract terms with ComEd and Ameren since February or March and that they had achieved a lot of common ground. Mr. Barry said that members of the ARES community, on the other hand, had largely elected not to participate in discussions about contract terms, with the exception of Exelon Generation. Mr. Barry advised that since the Alliance had been discussing the terms of the proposed agreement for such a length of time, and had exchanged several drafts, that it was not likely for complete consensus to emerge. However, Mr. Barry advised that the Alliance would examine whether there were additional issues the Alliance could concede.

- Mr. Strong asked about the issue of whether the utilities would be required to post collateral or credit. Mr. Strong said that the Director was not keen on requiring the utilities to post collateral since they are established financial entities. Mr. Barry said he would check, but thought that the Alliance had already agreed not to require the utilities to post collateral. Mr. Strong also asked whether the Alliance could accommodate any of ICC Staff's proposed changes to the sourcing agreement. Mr. Barry said he would check, but that it depended on the issue. For example, Mr. Barry advised that it was unlikely the Alliance could agree with ICC Staff's proposed rate of return, which would be insufficient for the project to obtain financing. Mr. Strong asked whether the Alliance could continue to negotiate toward achieving more consensus. Mr. Barry advised that given the late time frame, achieving more consensus through negotiation was unlikely, but that, again, the Alliance would examine the possibility.
- Mr. Strong advised that it would likely be difficult to avoid the issue from becoming a "federal case" because of the stakes involved, which might explain the constitutional arguments raised by some of the ARES.
- Mr. Strong said that he anticipated that the Commission would issue an order on the IPA Plan at some point during the week before Christmas since that week was the last one during which a bench meeting was scheduled.
- Mr. Strong asked whether the Alliance would request oral argument. Mr. Barry stated that it was unlikely the Alliance would request oral argument. Mr. Barry stated that it was his understanding that last time oral argument was used in connection with an IPA Procurement Plan was for the 2010 Plan, and the principal issue debated then was long-term contracts for renewables. Mr. Barry said that in that instance, the Attorney General's Office had requested oral argument. Mr. Barry stated that unless the Attorney General's Office requested oral argument in the current proceeding, it was unlikely to be granted.
- Mr. Barry and Mr. Strong next discussed some of the arguments raised against the FutureGen Project in the proceeding. One of those arguments was that the electricity output of the FutureGen Project would be too small to make an impact. Mr. Strong said that it was a mistake to criticize the size of the plant's

output. He also stated that to be fair, the project has to be compared with other “new build” capacity. Unlike renewables, Mr. Strong stated, there is no cheap fill in option for clean coal; he stated that clean coal in Illinois could only be achieved through new or retrofitted coal plants. Mr. Strong said that the IPA cannot simply purchase RECs from Iowa wind energy projects to comply with the clean coal output requirements of the Clean Coal Portfolio Standard. Mr. Barry and Mr. Strong also discussed how it was unfair for other parties to compare the costs of the FutureGen Project to ordinary market prices since the costs of building any new capacity project, clean coal or otherwise, would need to be offset.

- Mr. Strong asked what would happen if the ICC issues an order that does not provide a definitive power purchase agreement for the FutureGen Project, or requires an additional proceeding, or if the ICC orders workshops, as the ICC did in 2009 for the long-term renewable contracts. Mr. Barry stated that further delays on a decision would negatively impact the project’s schedule, which was already tight, and could have an impact on the U.S. Department of Energy’s decision to move the project into the next phase, which would have a negative impact on cash flow.
- Mr. Strong stated that he believed the ICC might invite an application for rehearing so that it could evaluate additional information about the sourcing agreement.