

**COMMENTS OF EXELON GENERATION COMPANY  
ON THE ILLINOIS POWER AGENCY'S  
DRAFT POWER PROCUREMENT PLAN**

Exelon Generation Company (“ExGen”) submits these comments on the Illinois Power Agency’s (“IPA”) Draft 2012 Power Procurement Plan (“Plan”) posted on the IPA’s website on August 15, 2011, pursuant to Section 16-111.5(d)(2) of the Illinois Public Utilities Act (“PUA”).<sup>1</sup> For the convenience of the Commission and the parties, ExGen has attached a redlined version of the Plan reflecting ExGen’s comments.<sup>2</sup>

ExGen suggests three clarifying changes to the Plan to ensure consistency with the PUA and the Illinois Power Agency Act (“the Act”).<sup>3</sup> Specifically, these changes are to: (1) limit renewable energy credit (“REC”) acquisitions to a one-year period; (2) eliminate the clean coal procurement proposal; and (3) confirm that no benefits from in-state resources will be considered in the REC pricing benchmark. ExGen’s silence on the remaining sections of the Plan should not be construed as absolute agreement, and ExGen reserves its rights to further comment on any and all proposals in the Plan in the proceeding at the Illinois Commerce Commission (“ICC”).

**I. The IPA Procurement Plan Should Solicit Bids for a Single Compliance Year Only**

The IPA proposes to solicit REC bids for “multiple compliance years” with terms up to 20 years.<sup>4</sup> As discussed more thoroughly below, ExGen opposes this proposal for reasons that are identified by the IPA in the Plan itself. Specifically, the IPA has not presented any reason to deviate from the existing one-year REC procurement approach. Soliciting REC bids up to 20

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<sup>1</sup> 220 ILCS 5/16-111.5(d)(2).

<sup>2</sup> Appendix A.

<sup>3</sup> 20 ILCS 3855/1-1 *et seq.*

<sup>4</sup> Plan at 1, 50.

years into the future increases risk to suppliers and consumers. Because there is no long-term REC market, the IPA is not able to benchmark such purchases appropriately. Moreover, the existence of the Renewable Energy Resources Fund already provides a statutory mechanism to procurement of long-term renewable resources contracts. Finally, the IPA recently finished a procurement involving 20-year contracts, which diminishes the need for further long-term REC support. Based on all of these reasons, the IPA should modify the draft Plan to eliminate the proposal to procure long-term RECs.

**A. The Existing One-Year REC Procurement Strategy Has Consistently Provided RECs to Meet Illinois' Renewable Portfolio Standard**

Given the admitted complications with accurately predicting the volume requirements and creating the required benchmarks for long-term RECs, it is unclear why the IPA has proposed solicitations for RECs with terms as long as 20 years. The Plan offers no explanation whatsoever for this deviation from past REC procurement practices. This deviation is particularly puzzling because the IPA has acknowledged that the renewable portfolio standard (“RPS”) obligation was successfully met in past years through solicitations of annual RECs only.<sup>5</sup> The procurement of annual RECs by the IPA has worked to ensure lowest-cost compliance with the Illinois RPS, and it is unclear why the IPA proposes to change its approach and embrace an option – long-term REC procurement – with no track record and uncertain costs to consumers.

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<sup>5</sup> Plan at 49.

## **B. Procurement of Long-Term RECs Materially Increases Risks to Consumers and Suppliers**

REC procurements beyond one compliance year are inherently risky because predicting the volume requirements is complicated by retail choice, and the budget is variable largely due to the long-term bundled contract obligations.<sup>6</sup> The IPA acknowledges that as retail competition develops in Illinois, the RPS volume goals – and the available budget – will diminish over time.<sup>7</sup> Additionally, prices for RECs have been volatile over the past few years, and there is no visible market for RECs beyond one year.<sup>8</sup>

The IPA's arbitrary proposal for long-term RECs introduces significant complications by requiring projections over decades that dramatically increase the risk of locking in fixed price contracts now that will be in excess of available budget dollars in future years. To seek bids for long-term RECs, the IPA proposes to create a Net Renewable Resources Budget ("NRRB"), which first requires estimating the annual portfolio requirements **for the next 20 years**.<sup>9</sup> The IPA then applies the rate cap to establish the Renewable Resources Budget ("RRB"), which then backs out the confidential "implied" REC prices from the long-term contracts. As noted in the Plan, those implied REC prices are based off a **confidential 20-year future price curve** that was generated by the IPA when those contracts were first entered into.<sup>10</sup> Lastly, the IPA proposes to

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<sup>6</sup> See Plan at 49, where the IPA acknowledges that "meeting the RPS obligation is growing more complicated over time with volume requirements, budgets, and the costs of pre-existing contract obligations all operating in a variable manner."

<sup>7</sup> Plan at 48.

<sup>8</sup> For example, the average price for wind RECs procured by the IPA for ComEd have ranged from \$35.72 in 2008 to \$1.05 in 2011. Solar REC prices have also been volatile. SREC values in NJ have dropped from \$640 in June of this year to a low of \$165 in September, just 3 months later. Pennsylvania's June SREC prices in 2009 were \$300 compared to \$97.50 in 2011. Several other states are seeing similar trends.  
[http://www.srectrade.com/srec\\_prices.php](http://www.srectrade.com/srec_prices.php)

<sup>9</sup> *Id.* (emphasis added).

<sup>10</sup> *Id.* at 50 (emphasis added).

factor the NRBB by 50%, which is neither intuitive nor explained, and then solicit REC bids for up to the 20-year horizon.

Predicting the annual portfolio requirements is difficult under normal circumstances, for a variety of reasons acknowledged in the Plan.<sup>11</sup> The IPA further notes, however, that retail choice has made the requirements even more uncertain and highly variable, particularly with the advent of municipal aggregation and recent positive developments in retail choice for residential customers.<sup>12</sup> The rate at which customers are going to switch over the next year is difficult to predict, and the quality of the forecast degrades rapidly over 20 years.

Moreover, the required price benchmark, against which the IPA proposes to compare the bids, must consider the relevant market price for a 20-year REC contract. No such market price exists: the visibility for REC prices in the competitive market is about one year. Accordingly, there is no adequate way for the IPA to establish a proper price benchmark for long-term RECs and satisfy its requirement to purchase “cost-effective” renewable resources.

The Plan offers absolutely no justification, let alone purported benefits, as to why it includes a substantially more complicated and risky renewable resources procurement proposal. The Plan also fails to explain how the 20-year fixed-price REC contracts will be paid if the budget is exhausted due to the statutory rate caps, despite acknowledging that the RRB will diminish over the coming years.

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<sup>11</sup>The risks identified by the IPA include inelastic consumption by bundled customers and the unknown rate of migration to retail suppliers. *See* Plan at 8.

<sup>12</sup> *Id.* at 9.

**C. The Renewable Energy Resources Fund Already Provides a Mechanism to Procure Long-term Renewable Resources Contracts**

While the reason behind the long-term REC proposal is not identified in the Plan, renewable energy developers have traditionally intervened in the procurement dockets requesting longer term REC procurements as a means to help secure financing. Yet the IPA already has a mechanism in place to address these concerns without subjecting Illinois consumers to greater risk. The General Assembly established the Renewable Energy Resources Fund as a means to support renewable energy generation development without further increasing the costs and price risks to customers. In light of this existing mechanism designed to address these concerns, the IPA should not enter into long-term contracts that by its own admission are risky and more costly.

**D. The IPA Recently Completed a 20-Year Bundled Contracts Procurement, and Further Long-Term Procurement Could Result in Unbalanced Portfolios**

In 2009, the Commission approved the procurement of certain amounts of bundled energy and RECs subject to 20-year agreements.<sup>13</sup> As a result of that proceeding, the IPA procured 1,400,000 MWh of renewable energy under long-term agreements. These contracts already form a significant percentage of the total available budget. Proposing to procure more long-term RECs would possibly be understandable if the IPA were struggling to procure the necessary RECs through its annual procurements. This, however, is clearly not the case: by its own admission, the annual procurements have resulted in the acquisition of lowest-cost RECs to satisfy the RPS requirements.

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<sup>13</sup> *Order, Ill. Power Agency*, Docket No. 09-0373, at 115-20 (Ill. Commerce Comm'n, Dec. 28, 2009).

## II. The IPA Should Eliminate the Plan's Clean Coal Requirement

The draft Plan includes a proposal to procure up to 250 MW of electricity generated by a clean coal facility.<sup>14</sup> Contrary to the IPA's assertions in the Plan, the procurement of clean coal is not required by the IPA Act. The IPA Act the Plan to include electricity generated from clean coal facilities *only at such time* as the utilities enter into sourcing agreements with the "initial clean coal facility." No initial clean coal facility currently exists. Absent a statutory mandate to require the procurement of power generated by clean coal facilities, the IPA's Plan provides no basis for imposing these exorbitant costs on retail customers.

### A. The IPA is not Required to Include a Clean Coal Procurement Mandate

Clean coal portfolio standards were added to the IPA Act by Public Act 95-102 in 2009. The IPA Act does state that "procurement plans shall include electricity generated using clean coal."<sup>15</sup> Context indicates that the Illinois General Assembly intended to make this requirement contingent upon a utility entering into a sourcing agreement with the "initial clean coal facility,"<sup>16</sup> which is why the General Assembly also required the sourcing agreement to be included in the procurement plan.<sup>17</sup>

There is, however, no existing initial clean coal facility. Without an existing initial clean coal facility, the IPA is not required to – and for prudential reasons, should not – include the requirement to procure electricity generated by a clean coal facility. This conclusion has been reached by all parties, including the IPA and the Commission, in the previous two procurement plans since the amendments became effective. In its previous plans, the IPA has not interpreted

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<sup>14</sup> Plan at 54-55.

<sup>15</sup> 20 ILCS 3855/1-75(d)(1).

<sup>16</sup> *See id.* ("Each utility shall enter into one or more sourcing agreements with the initial clean coal facility . . . covering electricity generated by the initial clean coal facility . . .").

<sup>17</sup> *Id.*

the IPA Act to require similar clean coal provisions,<sup>18</sup> nor did the Commission itself address clean coal issues in the previous proceedings.<sup>19</sup>

Thus, based on the statute and the consistent interpretations of its provisions, the IPA is not required to include the procurement of clean coal within the Plan.

**B. The Clean Coal Mandate does not Meet the “Lowest Total Cost” Requirement of the Procurement Plan**

Although the IPA is not required to include a clean coal mandate, the IPA may choose to do so provided that the proposal meets the standard identified in the PUA, that the plan:

will 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.<sup>20</sup>

In the Plan, the IPA merely proposes clean coal procurement but provides no evidence to demonstrate how the proposal meets the PUA’s requirements. Because no clean coal facility currently exists, and the technology itself is unproven, there has been no showing that the costs to retail customers will meet the “lowest total cost over time” standard. The Commission’s recent analysis of the Tenaska Clean Coal Facility strongly supports the conclusion that the least cost standard cannot be satisfied, finding the costs of such a facility to be “substantially higher” than for other types of generation facilities.

Accordingly, the IPA should revise the Plan to remove the clean coal procurement provision, as indicated in the attached redline.

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<sup>18</sup> See *Ill. Power Agency Power Procurement Plan to the Ill. Comm. Comm’n*, Docket No. 09-0373 (Ill. Commerce Comm’n, Sept. 30, 2009); See *Ill. Power Agency Power Procurement Plan to the Ill. Comm. Comm’n*, Docket No. 10-0563 (Ill. Commerce Comm’n, Sept. 29, 2010).

<sup>19</sup> *Final Order*, Docket No. 09-0373 (Ill. Commerce Comm’n, Dec. 28, 2009); *Final Order*, Docket No. 10-0563 (Ill. Commerce Comm’n, Dec. 21, 2010).

<sup>20</sup> 220 ILCS 5/16-111.5(j)(ii); 20 ILCS 3855/1-5.

### **III. The IPA Should Confirm that no Benefits from In-State Resources Will be Considered in the REC Pricing Benchmark**

Pursuant to the Act, all renewable energy purchased prior to June 1, 2011 were required to be procured first from facilities in Illinois, then from facilities located in states adjacent to Illinois, then from facilities located elsewhere. The Plan acknowledges that because renewable energy resources are being procured for a period after June 1, 2011, the geographic preference no longer applies.<sup>21</sup> However, when explaining the methodology for establishing renewable resources price benchmarks, the Plan indicated it will consider “the economic development benefits of in-state resources.”<sup>22</sup> ExGen assumes that this inclusion was an oversight and requests that the IPA clarify that economic benefits of in-state resources will not be considered in the price benchmark since the in-state preference no longer applies.

### **IV. Conclusion**

For all the reasons stated above, ExGen respectfully requests the IPA to make its suggested changes to the Plan. The IPA should eliminate the proposal to acquire long-term RECs, which increases uncertainty and creates the risk of significant increased costs for retail customers. The IPA should eliminate the clean coal requirement, which is not required by statute and does not meet the PUA’s lowest total cost over time standard. Finally, the IPA should revise the Plan to clarify that economic benefits from in-state resources will not be considered in the REC pricing benchmark.

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<sup>21</sup> See 20 ILCS 3855/1-75(e)(3).

<sup>22</sup> Plan at 50.