STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

ILLINOIS POWER AGENCY	**)**	
Petition for Approval of the	**)**	**Docket No. 11-0660**
220 ILCS 5/16-111/5(d) Procurement Plan	**)**	

THE RETAIL ENERGY SUPPLY ASSOCIATION
REPLY TO BRIEFS ON EXCEPTIONS

I. INTRODUCTION

The Retail Energy Supply Association ("RESA") is a broad and diverse group of retail energy suppliers who share the common vision that competitive retail energy markets deliver a more efficient, customer-oriented outcome than a regulated utility structure.[1] RESA is devoted to working with all stakeholders to promote vibrant and sustainable competitive retail energy markets for residential, commercial and industrial consumers. RESA has submitted Objections, a Response to Objections, and a Reply to Responses to Objections in this proceeding concerning the adoption of the Illinois Power Agency's ("IPA") Procurement Plan for 2012-2017 (the "2012 Plan").

[1] RESA's members include Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc.; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC); PPL EnergyPlus, LLC; Reliant; and TriEagle Energy, L.P.. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

Pursuant to the schedule set by the Administrative Law Judge, RESA and other parties filed briefs on exceptions to the Administrative Law Judge's Proposed Order ("ALJPO") on December 2, 2011. In this Reply to Briefs on Exceptions, RESA addresses the Briefs on Exceptions filed by Wind on the Wires ("WOW") and FutureGen Industrial Alliance, Inc. ("FutureGen"). Contrary to the arguments of WOW, the ALJPO properly finds that the procurement plan for renewable resources should be satisfied by the use of one-year renewable energy credits ("RECS"). Contrary to the arguments of FutureGen, the 2012 Plan need not and should not include a clean coal procurement.

II. THE ALJPO PROPERLY FINDS THAT THE RENEWABLE ENERGY RESOURCES REQUIREMENT SHOULD BE MET THROUGH THE USE OF ONE-YEAR RENEWABLE ENERGY CREDITS.

After a careful consideration of the positions of all of the parties on the proper means of meeting renewable energy resource requirements, the ALJPO concluded: "While the Commission is open to considering long-term RECs for inclusion in future procurement Plans, the Commission finds that given the current market conditions, eligible retail customers are likely to benefit from the acquisition of one-year RECS. For purposes of the 2012 Plan, the Commission concludes that one-year RECs should be included and long-term RECs should not be included." (ALJPO, p. 84) RESA agrees with and supports this conclusion which is based on the positions of the IPA, the Commission Staff, electric utilities, electric generation companies and Retail Electric Suppliers. The utilization of one-year RECs for the 2012 Plan will result in a low-cost supply of renewable energy resources and will allow time to assess the impact of municipal aggregation and increased competition for residential customers on the level of migration from the Illinois electric utilities. The issue of medium and long term procurement of

renewable energy resources can be better addressed in the 2013 power procurement plan after another year of experience with utility migration.

Only WOW excepts to the ALJPO on this issue. However, WOW's arguments were fully refuted by other parties during this proceeding. Moreover, in its Brief on Exceptions, WOW does not even attempt to address the fact that there is substantial uncertainty due to load migration which would be better addressed in future procurement plans. The effects of customer migration are important because longer term resources may not be needed to serve load that migrates away from utility bundled service. The ALJPO's acceptance of the IPA's approach of procuring one-year RECs, which are plentiful and inexpensive, for the 2012 Plan and deferring the issue of multi-year RECs until future plans when there has been more experience with load migration provides the most reasonable conclusion for this issue based on the record in this proceeding.

III. THE ALJPO PROPERLY ACCEPTED THE IPA'S DECISION TO EXCLUDE THE CLEAN COAL PROCUREMENT FROM THE 2012 PLAN.

The ALJPO properly concludes that "a clean coal solicitation should not be included in the 2012 Plan". (ALJPO, p. 55) The ALJPO notes that the IPA originally included a proposal for a clean coal procurement in the 2012 Plan, but "ultimately agreed that a clean coal proposal should not be included in the 2012 Plan". (*Id*.) RESA agrees that the IPA made an appropriate decision and that the ALJPO was correct in reflecting that decision.

Only FutureGen filed a Brief on Exceptions which continues to support the 2012 Plan's inclusion of a clean coal requirement. While FutureGen's position is understandable from the perspective of a company that desires to be--but is not--the initial clean coal facility, RESA agrees with the IPA that it is best to defer this issue until a future plan and that it makes sense for

the IPA to work through clean coal procurement issues with interested parties via a workshop process "when the time is appropriate". (IPA Response, p. 8)

FutureGen claims, incorrectly, that a clean coal procurement is required in the 2012 Plan because it is "prepared to submit a bid that procurement for its FutureGen 2.0 project for power produced in the 2016-2017 time frame". (FutureGen BOE, pp. 2-3) FutureGen's position that a clean coal procurement is required by the IPA Act is not supported by the law—the procurement of clean coal is not required by the IPA Act. As pointed out by the ALJPO in its recitation of the Commission Staff's position, "the Commission is not obligated to approve any purchases from clean coal facilities other than those associated with the 'initial clean coal facility,' as defined in Section 73 (d) (3) of the Illinois Power Agency Act." (ALJPO, pp. 42-43) Because there is currently no initial clean coal facility, there is no requirement to include clean coal in the 2012 Plan. Simply put, FutureGen's desire to be the initial clean coal facility does not make it so. Consequently, the IPA can only include such a requirement if the clean coal procurement 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". (220 ILCS 5/16-111.5 (d) (4)) Far from resulting in lower costs, inclusion of the clean coal procurement would subject the utilities' eligible customers to exorbitant increased costs, and even greater costs risks for the customers of RESs.[2] (RESA Objections, pp. 8-9)

The inclusion of a clean coal procurement in the 2012 Plan would operate to dramatically increase costs and, therefore, would be inconsistent with the requirements of the IPAA. The clean coal procurement was properly eliminated from the 2012 Plan by the IPA and the ALJPO's acceptance of that elimination was reasoned, appropriate, and fully supported by the law.

[2] For example, the cost study filed by the Commission related to the Taylorville Facility showed costs more than $8 billion above market over the next 30 years. (Analysis of the Taylor Energy Center Facility Cost Report, September 1, 2010)

IV. CONCLUSION

In conclusion, WOW's arguments in support of multi-year RECS and FutureGen's arguments in support of a clean coal procurement should be rejected. The Commission should affirm the decisions of the ALJPO on those issues.

Respectfully submitted,

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NOTICE OF FILING

Please take note that on December 6, 2011, I caused to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission, the attached Reply to Briefs on Exceptions of the Retail Energy Supply Association in this proceeding.

Dated: December 6, 2011

/s/GERARD T. FOX
Gerard T. Fox

CERTIFICATE OF SERVICE

I, Gerard T. Fox, certify that I caused to be served copies of the foregoing Reply to Briefs on Exceptions of the Retail Energy Supply Association upon the parties on the service list maintained on the Illinois Commerce Commission's eDocket system for the instant docket via electronic delivery on December 6, 2011.

/s/ GERARD T. FOX
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