STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

ILLINOIS POWER AGENCY	)	
Petition for Approval of the	)	**Docket No. 14-0588**
220 ILCS 5/16-111/5(d) Procurement Plan	)	

THE RETAIL ENERGY SUPPLY ASSOCIATION
VERIFIED RESPONSE TO OBJECTIONS TO
ILLINOIS POWER AGENCY'S 2015 PROCUREMENT PLAN

I. INTRODUCTION

The Retail Energy Supply Association ("RESA")[1] 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. 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 been an active participant in all of the proceedings before the Illinois Commerce Commission ("Commission") concerning approval of the annual procurement plans of the Illinois Power Agency ("IPA"), beginning with Ill. C. C. Docket 08-0519. RESA submitted Comments to the IPA on its Draft 2015 Power Procurement Plan, dated August 15, 2014 (the "2015 Draft Plan"). On October 6,

[1] RESA's members include AEP Energy, Inc.; Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc.; GDF SUEZ Energy Resources NA, Inc.; Homefield Energy; IDT Energy, Inc.; Integrys Energy Services, Inc.; Interstate Gas Supply, Inc. d/b/a IGS Energy; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; NRG, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd.; 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.

2014, RESA filed Objections to the IPA's 2015 Power Procurement Plan (the "2015 Plan") filed with the Commission on September 29, 2014, and docketed as Ill. C. C. Docket 14-0588.

A number of other parties also submitted Objections to the 2015 Plan regarding a large number of issues. RESA will only address two issues.

First, for the reasons stated in its Objections to the 2015 Plan, RESA supports the proposal of the Illinois Competitive Energy Association ("ICEA") to incorporate a four-year pilot program for fixed-priced, full requirements ("FPFR") products into the 2015 Plan. In addition to ICEA and RESA, Exelon Generation ("ExGen") supported ICEA's proposal in its Objections. The only party filing Objections opposing the incorporation of FPFR products into the 2015 Plan was the Citizens Utility Board ("CUB"). In this Response, RESA will address the Objections of ICEA, ExGen, and CUB regarding FPFR products.

Second, Sargas, Inc. ("Sargas") submitted Objections which argue that the IPA is required to conduct a clean coal procurement as part of the 2015 Plan. Sargas also argues that the Commission can require electric utilities and Alternative Retail Electric Suppliers to enter into sourcing agreements with operators of clean coal facilities (which are neither the initial clean coal facility nor a retrofitted clean coal facility), such as Sargas. RESA disagrees with Sargas' position and agrees that the IPA was correct in excluding a clean coal procurement from the 2015 Plan.

II. THE COMMISSION SHOULD APPROVE THE INCLUSION OF ICEA'S PROPOSED FOUR-YEAR PILOT PROGRAM FOR FIXED-PRICE, FULL REQUIREMENTS PRODUCTS IN THE IPA'S 2015 PROCUREMENT PLAN.

A. RESPONSE TO ICEA

ICEA's Objections are limited to one issue-the incorporation of FPFR products into the 2015 Plan, specifically in the form of ICEA's proposed four-year pilot program for ComEd's service territory ("ICEA Pilot Program"). As more fully described in ICEA's Objections, the purpose of the ICEA Pilot Program is to compare the performance of the IPA's block-and-spot approach, which the IPA has utilized since its first procurement plan filed in 2008, against actual IPA-run FPFR procurements. Thus, the ICEA Pilot Program would allow the comparison that the Commission found to be compelling in the ICEA's sponsored Northbridge Report (which was included in ICEA's filings in the last IPA procurement plan case, Ill. C. C. Docket 13-0544, and also attached as Appendix A to IPA's Objections in this proceeding), but which would be even more compelling in that it would allow a review of Illinois-specific data. RESA supports the ICEA Pilot Program because without such a program, the IPA's rejection of FPFR products is based on speculation, not real results.

Moreover, RESA agrees with ICEA that the 2015 Plan falls short of meeting the deficiencies of the IPA's analysis of FPFR products, as pointed out in both the filings of the Commission Staff in Docket 13-0544, as well as the Commission's Order in that proceeding. (ICEA Objections, pp. 12-15) In this regard, RESA notes that there was ample time between the Commission's December 18, 2014 Order in Docket 13-0544 and the filing of the 2015 Plan in the instant proceeding to remedy those shortcomings, especially considering that detailed support for FPFR products, in general, and the ICEA Pilot Program, in particular, was presented to the IPA during the June 5, 2014 IPA Workshop and in subsequent comments submitted to the IPA.

RESA also agrees with ICEA that the two policy arguments raised by the IPA against FPFR products should be rejected. First, contrary to the IPA's opinion, there is not sufficient evidence that bundled service customers would not value the insurance and stability provided by FPFR products. (*Id.*, pp. 15-16) Second, there is nothing about the IPA's role, as set forth in the IPA Act, that supports the rejection of FPFR products. (*Id.*, pp. 16-18)

ICEA's Objections include an Appendix B, which sets forth its proposed revisions to the 2015 Plan. RESA agrees with the proposed revisions in Appendix B and urges the Commission to accept those proposed revisions in its order in this proceeding.

B. RESPONSE TO EXGEN

ExGen also supports the inclusion of the ICEA Pilot Program in the 2015 Plan, based on its expertise in procurement events in Illinois and other jurisdictions. (ExGen Objections, pp. 3-6) ExGen refutes the IPA's rejection of FPFR products by demonstrating that the FPFR approach, in contrast to the IPA's position, best fulfills the IPA's statutory mandate. (Id., pp. 6-9) RESA agrees with ExGen that the Commission should order the inclusion of the ICEA Pilot Program in the 2015 Plan.

C. RESPONSE TO CUB

CUB was the only party to file Objections which supported the IPA's exclusion of FPFR products from the 2015 Plan. CUB's rationale basically agrees with the IPA's arguments as set forth in the 2015 Plan. (CUB Objections, pp. 1-3) All of those arguments have been refuted in the Objections of ICEA, ExGen and RESA. However, RESA would like to address one of CUB's statements: "CUB agrees [with the IPA] that any benefits of price stability associated with full requirements are, at this time, unknowable." (*Id.*, p. 2) That is exactly the purpose of

the ICEA Pilot Program—to provide actual data which would allow an apples-to-apples comparison of FPFR products with the IPA's bloc-and-spot approach. Again, absent that pilot and that comparison, CUB, and the IPA, are rejecting, out-of-hand, a potential superior alternative to the block-and-spot approach.

III. THE COMMISSION SHOULD NOT REQUIRE THE INCLUSION OF A CLEAN COAL PROCUREMENT IN THE 2015 PLAN.

In its 2015 Draft Plan, the IPA considered but rejected the position of Sargas to include a competitive clean coal procurement for projects such as that contemplated by Sargas.[2] In rejecting Sargas' position, the IPA noted the different types of clean coal facilities (*e.g.* the initial clean coal facility which does not currently exist and a retrofitted clean coal facility such as that being developed by the FutureGen Alliance), and concludes that for a clean coal facility such as that contemplated by Sargas, the IPA Act contains no mechanism for considering sourcing agreements with ARES.[3] Because the IPA conducts procurement events only on behalf of the utilities' default customers, the IPA correctly concludes that, given the significantly smaller default customers base and the amount of the statutory cap that will be used by FutureGen, "it would not be possible or wise to conduct a competitive procurement to solicit sourcing agreements for a 'clean coal facility'". (2015 Draft Plan, pp. 86-88) However, the IPA invited Sargas to submit Comments on its 2015 Draft Plan. Sargas did submit Comments. The IPA considered those Comments, but did not find them persuasive. Consequently, the IPA, in the 2015 Plan, rejects the inclusion of the clean coal procurement requested by Sargas. (2015 Plan, pp. 97)

---

[2] Sargas is seeking to develop a coal-fired plant in Mattoon, Illinois designed to burn Illinois coal with 90% post-combustion carbon capture.

[3] Note that the IPA's and the Commission's interpretation that the Commission can require ARES to enter into sourcing agreements with retrofitted clean coal facilities such as FutureGen is currently the subject of a leave to appeal to the Illinois Supreme Court.

In its Objections, Sargas basically makes the same arguments that it made in its Comments on the 2015 Draft Plan.[4] Those arguments have already been considered and rejected by the IPA. RESA does not believe that there is anything of merit in the Objections that justifies a different result. RESA agrees with the IPA that Sargas' position would require a change in the IPA Act. The Commission should accept the IPA's exclusion of the clean coal procurement contemplated by Sargas.

IV. CONCLUSION

RESA commends the IPA for submitting a 2015 Plan that is generally based on a thorough and thoughtful analysis, including its rejection of a clean coal procurement proposed by Sargas. However, RESA disagrees with the IPA in one important respect—the Commission should include the procurement of fixed-price full requirements products in ComEd's service territory. Specifically, the Commission should approve the inclusion of the ICEA Pilot Program In the 2015 Plan. This can be accomplished by accepting the revisions set forth in Appendix B to ICEA's Objections in this proceeding.

Respectfully submitted,

/S/ GERARD T. FOX
Gerard T. Fox
An Attorney for the Retail Energy Supply Association

Law Offices of Gerard T. Fox
203 North LaSalle Street, Suite 2100
Chicago, IL 60601
(312) 827-7986
gerardtfox@gerardtfoxlawoffices.com

[4] RESA notes that Objections supporting Sargas' position were filed by four other parties (the Illinois Brotherhood of Boilermakers, the Illinois Brotherhood of Electrical Workers, Lincoln Land Building Trades Council, and the Plumbers & Steamfitters Local 140). While RESA agrees with these parties that job creation in Illinois and technology advancement are important objectives, they do not provide the IPA with statutory authority to include a clean coal procurement in the 2015 Plan.

STATE OF ILLINOIS)
) **SS**
COUNTY OF COOK)

VERIFICATION

Gerard T. Fox, being first duly sworn, on oath deposes and says that he is an Attorney for the Retail Energy Supply Association, that he has read the foregoing Retail Energy Supply Association's Response to Objections, that he knows of the contents thereof, and that the same is true to the best of his knowledge, information, and belief.

/s/GERARD T. FOX
Gerard T. Fox

Subscribed and sworn to me

This 21st day of October, 2014

OFFICIAL SEAL
CLAUDIA A GUNDERSON
NOTARY PUBLIC-STATE OF ILLINOIS
MY COMMISSION EXPIRES 08/23/2016

NOTICE OF FILING

Please take note that on October 21, 2014 I caused to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission, the attached Retail Energy Supply Association's Verified Response to Objections in this proceeding.

Dated: October 21, 2013

/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 Retail Energy Supply Association's Verified Response to Objections upon the parties on the service list maintained on the Illinois Commerce Commission's eDocket system for the instant docket via electronic delivery on October 21, 2013.

/s/ Gerard T. Fox
Gerard T. Fox