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
BRIEF ON EXCEPTIONS

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.

Before and during this proceeding, RESA submitted the following documents: RESA Comments to the IPA on its Draft 2015 Power Procurement Plan, Objections to the IPA's 2015

[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.

Power Procurement Plan (the "2015 Plan"), a Response to Objections to the 2015 Plan, and a Reply to Responses to Objections.

All of RESA's filings supported 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.

The Administrative Law Judge's Proposed Order ("ALJPO") rejects ICEA's proposed FPFR pilot program. However, in doing so, the ALJPO appears to have misconstrued the nature of ICEA's proposal. The Commission should reverse the ALJPO on this issue and order the implementation of ICEA's pilot program.

II. THE COMMISSION SHOULD REVERSE THE ALJPO AND 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. Contrary to the ALJPO, the primary new evidence in this proceeding is ICEA's proposed pilot program.

Part of the basis for the ALJPO's rejection of ICEA's pilot program is the statement: "As the Commission understands it, the primary new evidence presented in this proceeding is the IPA's analysis of FPFR products in New Jersey and Pennsylvania." (ALJPO, p. 111) Similarly, the ALJPO states, incorrectly, that the information relied upon by ICEA, RESA and ExGen as support for the ICEA proposal is the "exact information relied upon in Docket No. 13-0546". (*Id*.) RESA disagrees. The primary new evidence presented in this proceeding is ICEA's proposed pilot program. A pilot program was not proposed in last year's proceeding, Docket 13-

0546; the proposal there was for a procurement of FPFR products, but not on a pilot program basis.

The pilot program proposed in this proceeding would allow the comparison of 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. In short, the ICEA Pilot Program would allow the comparison based on a review of Illinois-specific data. Without a pilot program, all of the arguments of the IPA and other parties opposing the program—and the ALJPO's acceptance of those arguments--are based on speculation, not real results.

In this regard, the Commission Staff, which neither supports nor opposes the ICEA Pilot Program, recognized the value of conducting a pilot program, namely providing a side-by-side comparison between the bidding results of a FRPR procurement and the IPA's block-and-spot procurement, conducted nearly simultaneously and for the same delivery periods. According to Staff, such "experiments would provide additional relevant data on the relative cost of the two procurement approaches". (Staff Response to Objections, p. 3)

B. The ALJPO fails to recognize that the ICEA pilot program will allow for an evaluation of the costs and benefits of FPFR products.

By apparently demanding that approval of a pilot program requires a demonstration of benefits, the ALJPO misunderstands the nature of a pilot program. The ALJPO states: "While most parties agree that the benefit of procuring a FPFR product would be reduced price risk for eligible retail customers, no party has attempt to quantify that benefit." (ALJPO, p. 111) The ALJPO goes on to repeat CUB's argument that any benefits of price instability associated with

FPFR products are unknowable at this time. (*Id.*) However, CUB missed the point, as did the ALJPO. The purpose of the pilot program is to evaluate the costs and benefits of FPFR products.

ExGen recognized this, stating that the fact that the benefits of price stability has not been fully explored in Illinois is not a reason to reject the ICEA Pilot Program. On the contrary, it is precisely the reason that the Commission should adopt the ICEA Pilot Program. (ExGen Response to Objections, pp. 1-3)

Moreover, as pointed out above, the Commission Staff recognized this point, as well. The purpose of the ICEA Pilot Program is to provide actual data which would allow an apples-to-apples comparison of FPFR products with the IPA's block-and-spot approach. In addition to cost considerations, such a comparison would also allow an evaluation of the benefits derived from these two product procurements. Again, absent that pilot and that comparison, the ALJPO is rejecting, out-of-hand, a potential superior alternative to the block-and-spot approach.

C. If as the ALJPO states, the record does not contain a complete analysis of the costs and benefits of FPFR products, the solution is to approve the ICEA Pilot Program, not reject it.

The ALJPO states:

> While the Commission was hopeful that its directive in Docket No. 13-0546 would allow the parties adequate time and information to more fully consider this issue in the current proceeding, the Commission is somewhat disappointed. There was essentially no useful information regarding the benefits of a FPFR procurement. The Commission is left wondering if such information is attainable. (ALJPO, p. 111)

First, RESA disagrees that there is no useful information regarding the benefits of a FPFR procurement. The benefits were identified in the filings of RESA, ExGen and ICEA, particularly in the ICEA-sponsored NorthBridge Report. While RESA shares the ALJPO's disappointment that the exact benefits of a FPFR procurement in Illinois are currently unknown,

RESA disagrees that the solution is to reject ICEA's pilot program. On the contrary, the only way to obtain the complete benefit information sought by the ALJPO is to approve implementation of ICEA's pilot program.

III. CONCLUSION

RESA generally commends the ALJPO for a thoughtful analysis of the 2015 Plan. However, RESA disagrees with the ALJPO 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.

Respectfully submitted,

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NOTICE OF FILING

Please take note that on November 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 Brief on Exceptions in this proceeding.

/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 Brief on Exceptions upon the parties on the service list maintained on the Illinois Commerce Commission's eDocket system for the instant docket via electronic delivery on November 21, 2014.

/s/ Gerard T. Fox
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