STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission On Its Own Motion	)	
Amendment of 83 Ill. Adm. Code 455	)	Docket No. 17-0267

VERIFIED REPLY COMMENTS OF
THE RETAIL ENERGY SUPPLY ASSOCIATION

On June 1, 2017, the Illinois Commerce Commission (the "Commission") entered its order in this proceeding adopting emergency rules amending 83 Ill. Admin. Code Part 455 and authorizing the publication of proposed First Notice Rules to amend Part 455 on a permanent basis. The Commission did so in order to incorporate the changes made to the Renewable Portfolio Standards ("RPS") provisions of the Public Utilities Act by the Future Energy Jobs Act ("FEJA"), Public Act 99-0906.

On June 6, 2017, the Commission issued a Notice of Administrative Law Judge's ("ALJ") Ruling establishing June 21, 2017, as the date for the filing of Verified Initial Comments and June 28, 2017, as the date for the filing of Verified Reply Comments. Pursuant to the ALJ's Ruling, the Retail Energy Supply Association[1] ("RESA") submitted its Verified Initial Comments on June 21, 2017. In its Initial Comments, RESA proposed revisions to the draft First Notice Rules attached to the Commission's June 1, 2017, Order to make those rules more workable and to reflect the realities of the marketplace for Renewable Energy Credits ("RECs").

[1] The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of more than twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

In addition to RESA, Initial Comments were also filed by the following parties: Carbon Solutions Group ("CSG"), Commonwealth Edison Company ("ComEd"), the Environmental Law and Policy Center ("ELPC"), the Illinois Commerce Commission Staff ("Staff"), the Illinois Competitive Energy Association ("ICEA"), the Illinois Power Agency ("IPA"), and Wind on the Wires. In these Reply Comments, RESA will reply to some of the Initial Comments made by the other parties in this proceeding.

ICEA

ICEA expressed the same concern as RESA regarding the impossibility of being 100% certain of compliance with proposed Subsection 455.120 (b) (4) of the First Notice Rules which states:

> For compliance periods ending on or after May 31, 2018, a certification that RECs used for compliance for the compliance period were not produced by facilities whose costs were being recovered through rates regulated by any state or states on or after January 1, 2017.

First, as discussed at length in workshops conducted by the Commission Staff prior to the Commission's June 1, 2017 Order, there is currently no designation criteria within MRETS and PJM GATS for a "facility not recovering costs through utility rates". While apparently there are efforts to work out a solution to this problem, it is not clear when such a solution would be available, if ever. Until there is a solution to this problem, RESA proposed adding the following language to the end of Subsection 455.120 (b) (4):

> A RES shall make its certification in good faith based on the best information available from the PJM GATS and the MISO M-RETS data bases at the time of the certification and shall not be subject to any penalty if subsequent information

indicates that certain RECs were produced by facilities whose costs were being recovered through rates regulated by any state or states on or after January 1, 2017.

ICEA proposed a different solution to the same problem. ICEA noted that Staff may be considering the compilation of two lists: a "green" list of RECs that Staff believes definitely comply with Subsection 455.120 (b) (4) and a "red" list of RECs that Staff believes that definitely do not comply with that subsection. Assuming the creation of such lists, ICEA makes three proposals. First, the lists should be referenced in the Commission's final rule in this proceeding. Second, a RES should be assumed to be in compliance if it purchases a REC that is on Staff's green list even if it is subsequently determined that the REC was placed on the green list erroneously. Third, if a RES elects to purchase a REC that is on neither the green nor the red list, there should be a compliance "safe harbor" if the RES takes certain prescribed steps (to be developed) to determine whether the REC is compliant with Subsection 455.120 (b) (4). (ICEA Initial Comments, pp. 3-4)

If RESA's proposed revision to Subsection 455.120 (b) (4) is not accepted, and assuming that Staff does create the two lists, RESA supports ICEA's proposal with the understanding that it will be necessary to develop the safe harbor approach. RESA is willing to work with other parties to develop this approach.

CSG

CSG also expresses a concern with meeting the requirements of proposed Subsection 455.120 (b) (4) and proposes a four step process for compliance with that

subsection. (CSG Initial Comments, pp. 4-9) While RESA appreciates CSG's efforts, it believes that the process is unworkable.

ELPC

In its Initial Comments, ELPC offers the opinion that the Commission's Part 455 should include greater public disclosure requirements. However, ELPC's opinion appears to be based on a misunderstanding of the roles of various entities in the regulatory process. ELPC states that it is important that the public has access to the associated filings to determine whether RESs are complying with the requirements. (ELPC Initial Comments, pp. 2-3) However, it is the job of the Commission to determine compliance. Consequently, there is no need for RESs to make public documents which are inherently of a proprietary nature.

CONCLUSION

For the reasons stated in RESA's Initial Comments and these Reply Comments, RESA respectfully requests that the Commission modify its proposed First Notice Rules consistent with RESA's recommendations.

Respectfully submitted,

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

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NOTICE OF FILING

Please take note that on June 28, 2017, I caused to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission, the attached Verified Reply Comments of the Retail Energy Supply Association 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 Verified Reply Comments 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 June 28, 2017.

/s/ GERARD T. FOX
Gerard T. Fox

STATE OF ILLINOIS)
) **SS**
COUNTY OF WILL)

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 Verified Reply Comments of the Retail Energy Supply Association, 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
28th day of June, 2017

NOTARY PUBLIC

STEFFEN HILL
Official Seal
Notary Public - State of Illinois
My Commission Expires Feb 22, 2020