

Energy, Capacity & REC Procurement

**Regulatory Partnership
Republic of Kosovo and the
Illinois Commerce Commission
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Illinois Electricity Procurement Legislation

- Illinois enacted legislation in August 2007 (Public Act 095-0481) that created the Illinois Power Agency (“IPA”) and the Illinois Power Agency Act (“IPA Act”).
- The IPA is charged with developing “electricity procurement plans” for Illinois electric utilities serving at least 100,000 customers “to 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” (20 ILCS 3855/1-5)



Statutory Procurement Process Established

- Public Act 095-0481 also amended the Illinois Public Utilities Act (“PUA”) by adding new Section 16-111.5 to establish various procedures and requirements for the procurement of electricity.
- The Illinois Commerce Commission (“ICC” or “Commission”) has approval and oversight authority for the procurement plans to be developed by the IPA and their implementation.

(220 ILCS 5/16-111.5)



Utility Load Forecasts

- Annual procurement planning process begins with the provision of utility load forecasts by July 15 of each year.
- The load forecasts cover the 5-year procurement planning period for the next procurement plan and must include hourly data representing high-load, low-load and expected-load scenarios for eligible retail customers.
- Utilities must provide supporting data and assumptions for each of the scenarios.

(220 ILCS 5/16-111.5(d)(1))



IPA May Retain Experts to Develop Plan

- The IPA may retain experts or expert consulting firms to develop procurement plans.
- IPA must follow specified process to establish list of qualified experts after considering objections by interested parties based on failure to satisfy qualification criteria, identification of a conflict of interest, or evidence of inappropriate bias. The ICC resolves disputed objections.
- IPA issues RFP to qualified experts and selects procurement plan development expert.

(20 ILCS 3855/1-75(a))

Requirements for Procurement Plan Expert

- Direct experience administering a large-scale competitive procurement process;
- Advanced degree in economics, mathematics, engineering, or a related area of study;
- 10 years of experience in the electricity sector;
- Expertise in wholesale electricity market rules, including Federal Energy Regulatory Commission and RTOs;
- Expertise in credit and contract protocols;
- Adequate resources to perform required work; and
- Absence of a conflict of interest and inappropriate bias for or against potential bidders or the affected utilities.

(20 ILCS 3855/1-75(a)(1))

Draft Procurement Plan Issued

- IPA must prepare a procurement plan identifying the portfolio of power and energy products to be procured by August 15th of each year.
- The procurement plan must be provided to the utilities and posted on the IPA's and ICC's websites.

(220 ILCS 5/16-111.5(d)(2); *see also* 20 ILCS 3855/1-75(d))



Informal Comment Period

- Interested parties have 30 days to provide comments to the IPA on the draft proposed procurement plan. Comments must be specific, supported by data or detailed analyses, and accompanied by specific alternative wording or proposals if objecting to all or a portion of the procurement plan.
- IPA has 14 days following 30-day comment period to make revisions to the draft procurement plan and file a final procurement plan with the Commission.

(220 ILCS 5/16-111.5(d)(2); *see also* 20 ILCS 3855/1-75(e))

Approval Process Before Commission

- Objections to the procurement plan must be filed with the Commission within 5 days after it is filed by the IPA.
- Commission must determine within 10 days whether a hearing is necessary.
- Commission must enter an order confirming or modifying the procurement plan within 90 days after it is filed by the IPA.

(220 ILCS 5/16-111.5(d)(3))



Standard for Commission Approval

- “The Commission shall approve the procurement plan, including expressly the forecast used in the procurement plan, if the Commission determines that it 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))



Procurement Plan Requirements

- Comply with IPA Act Requirements.
- Analyze the projected balance of supply and demand for eligible retail customers over a 5-year period.
- Specifically identify the wholesale products to be procured following plan approval.
- Must generally use competitively bid request for proposals process.
- Shall include the following components:
 - Hourly load analysis, including multi-year historical analysis, switching trends, changes to future loads, growth forecasts.



Procurement Plan Requirements (cont.)

- Analysis of the impact of any demand side and renewable energy initiatives.
- A plan for meeting the expected load requirements that will not be met through preexisting contracts which includes definitions of the different retail customer classes for which supply is being purchased, monthly forecasted system supply requirements, the proposed mix and selection of standard wholesale products, proposed term structures for each wholesale product type, and an assessment of the price risk, load uncertainty, and other factors associated with the proposed procurement plan.



Procurement Plan Requirements (cont.)

- Proposed procedures for balancing loads, including the process for (i) hourly balancing of supply and demand and (ii) the criteria for portfolio re-balancing in the event of significant shifts in load.

(220 ILCS 5/16-111.5(b))



IPA Act Plan Requirements

- Renewable Portfolio Standard (“RPS”) is codified in Section 1-75(c) of the IPA Act. (20 ILCS 3855/1-75(c))
- RPS standard requires specified minimum percentage of each utility's total supply to serve the load of eligible retail customers to be generated from cost-effective renewable energy resources (“RERs”), starting at 2% by June 1, 2008, and reaching 25% by June 1, 2025.
- “Cost-effective” RERs are those RERs that can be procured without exceeding the annual customer cost caps in Section 1-75(c)(2) of the IPA Act and the applicable benchmarks for RERs. Cost caps start in 2008 at 0.5% of total amount paid per kWh by eligible customers during prior year ending May 31, and increase 0.5% per year until 2011.



IPA Act Plan Requirements (Cont.)

- "Renewable energy resources" means energy and its associated renewable energy credit or credits from qualifying sources (such as wind, solar thermal energy, photovoltaic cells and panels) as defined in the IPA Act. (20 ILCS 3855/1-10)
- "Renewable energy credit" means a tradable credit that represents the environmental attributes of a certain amount of energy produced from a renewable energy resource. (20 ILCS 3855/1-10)

Procurement Process

- The procurement process starts after approval of a procurement plan by the Commission.
- The procurement process to implement the procurement plan must be administered by a procurement administrator and monitored by a procurement monitor.
(220 ILCS 5/16-111.5(c))

Procurement Administrator

- IPA must follow specified process to establish list of qualified experts after considering objections by interested parties. The ICC resolves disputed objections. (20 ILCS 3855/1-75(a)(2) and (3))
- IPA issues RFP to qualified experts and selects procurement administrator subject to Commission approval. (20 ILCS 3855/1-75(a)(4) and (6))
- RFQ for PA for 2009 can be viewed on line (requires free registration) on Illinois Procurement Bulletin:
<http://www.purchase.state.il.us/ipb/IllinoisBID.nsf/frmBidDocFrameset?ReadForm&RefNum=22016175&DocID=5E8AFDCCB16DB8AE862575270075FF2D&view=search>.



Procurement Administrator Duties

- Design the final procurement process.
- Develop benchmarks to be used to evaluate bids.
- Serve as the interface between the utilities and suppliers.
- Manage the bidder pre-qualification and registration process.
- Obtain utility agreement to supply contracts and credit collateral agreements.
- Administer the request for proposals process.
- Conduct discretionary post-bid price reduction negotiations.
- Maintain confidentiality of confidential supplier and bidding information.
- Submit confidential reports to ICC with bid recommendations.
- Notify utility of contract counterparties and contract specifics.
- Administer related contingency procurement events.

(220 ILCS 5/16-111.5(c)(1))

Procurement Monitor

- Procurement monitor (“PM”) is retained by the Commission.
- RFP for PM for 2009 can be viewed on line (requires free registration) on Illinois Procurement Bulletin:

<http://www.purchase.state.il.us/ipb/IllinoisBID.nsf/frmBidDocFrameset?ReadForm&RefNum=22015390&DocID=3A35DFBCB2E777FB8625746B00507478&view=search>



Procurement Monitor Duties

- Monitor interactions among the PA, suppliers, and utilities.
- Monitor and report to ICC on the progress of the procurement process.
- Provide independent confidential report to ICC regarding the results of the procurement events.
- Assess compliance with approved procurement plans.
- Maintain confidentiality of confidential supplier and bidding information;
- Provide expert advice to ICC and consult with PA regarding issues related to procurement process design, rules, protocols, and policy-related matters.
- Consult with the PA regarding the development and use of benchmark criteria, standard form contracts, credit policies, and bid documents.

(220 ILCS 5/16-111.5(c)(1))



Procurement Process Components

- Solicitation, pre-qualification, and registration of bidders.
- Development of Standard contract forms and credit terms and instruments that meet generally accepted industry practices. Terms disputed by utilities submitted to ICC for resolution. Contract terms not subject to negotiation by winning bidders so that winning bids are selected solely on the basis of price.
- Establishment of confidential price benchmarks subject to ICC approval.
- Design procedures for RFP competitive procurement process with sealed, binding commitment bidding.
- Plan for implementing contingencies in the event of supplier default or failure of the procurement process to fully meet the expected load requirements.

(220 ILCS 5/16-111.5(e))



Procurement Event Bid Approval Process

- Within 2 business days of opening sealed bids for each procurement event, the PA and PM submit confidential reports to the ICC describing the bidding results, assessing bidder behavior, and making recommendations regarding acceptance or rejection of bids. The ICC must accept or reject the recommendation of the PA within 2 business days of receiving the reports. (220 ILCS 5/16-111.5(f))
- For the 2009 procurement events the PA and PM committed to providing their reports within 1 business day, and the ICC acted within 1 business day, to minimize any risk premium associated with bidders holding bids open during the review process.



Public Notice and Informal Review Process

- The names of winning bidders and the load weighted average winning bid prices must be made available to the public at the time of Commission approval of a procurement event. (220 ILCS 5/16-111.5(h))
- Commission must hold informal hearings for review of prior year's procurement process, which is accomplished through a paper comment process. (220 ILCS 5/16-111.5(o))
- Public notices and comments regarding the 2009 procurement process can be viewed on the Commission's website:
<http://www.icc.illinois.gov/Electricity/procurementprocess2009.aspx>

Procurement Administrator Websites

- Documents , notices, frequently asked questions and other relevant information regarding the 2009 procurement events can be viewed via the procurement administrators' websites.
 - ComEd Energy and Renewable Energy Credits: NERA Economic Consulting: <http://www.comed-energyrfp.com>
 - Ameren Energy, Capacity, and Renewable Energy Credits: Levitan and Associates: <http://www.levitan.com/AIURFP>