

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission :  
On Its Own Motion :  
:  
Determination and posting of maximum and :  
estimated "Alternative Compliance Payment" :  
rates associated with the Public Utilities Act's : 09-0342  
new Section 16-115D "Renewable portfolio :  
standard for alternative retail electric :  
suppliers and electric utilities operating :  
outside their service territories," established :  
by Public Act 96-0033 (SB 1918 enrolled) :

ORDER

By the Commission:

On July 10, 2009, the Governor signed into law Public Act 96-0033 (SB 1918 enrolled), which went into effect immediately. This law makes several revisions to the Public Utilities Act, including the creation of a new Section 16-115D "Renewable portfolio standard for alternative retail electric suppliers and electric utilities operating outside their service territories." (220 ILCS 5/16-115D) The new Section requires both alternative retail electric suppliers and electric utilities operating outside their service territories (referred to collectively herein as "Alternative Suppliers") to procure renewable energy resources in amounts at least equal to the annual percentages set forth in item (1) of subsection (c) of Section 1-75 of the Illinois Power Agency Act times the actual amount of metered electricity delivered by the Alternative Suppliers during each 12-month period June 1 through May 31, commencing June 1, 2009. However, Section 16-115D(b) also requires Alternative Suppliers to meet at least 50% of their renewable quota through alternative compliance payments ("ACPs"). (220 ILCS 5/16-115D(b))

In order for Alternative Suppliers to plan for and ultimately make their alternative compliance payments, the law requires the Commission to establish and post ACP rates, which are to be computed based on formulas set forth in Section 16-115D(d)(1). (220 ILCS 5/16-115D(d)(1)) More specifically, new Section 16-115D requires three types of calculations to be established and posted to the ICC web site for each June-May compliance period. First, within five days of entering an order in an annual Section 16-111.5 procurement plan proceeding, the Commission is required to post **maximum** ACP rates, for each applicable utility service territory, equal to the maximum allowable rate increase due to the costs of the utility's purchase of renewable energy resources. Second, within ten days of each renewable energy resource procurement event that is held pursuant to those plans, the Commission must post **estimates** of the actual ACP rates that it expects will ultimately prevail. Finally, by the July 1 following each pro-

curement plan period, the Commission must post the **actual** ACP rates, which are set equal to the total amount of dollars for which the utility contracted to spend on renewable resources for the compliance period divided by the forecasted load of eligible retail customers, at the customers' meters, as previously established in the Commission-approved procurement plan for that compliance year. (220 ILCS 5/16-115D(d)(1))

Had Section 16-115D been in effect when the Commission entered its January 7, 2009 Order in the most recent procurement plan case (Docket 08-0519), the Commission would have established and posted at that time the applicable maximum ACP rates and would have established the forecasted load of eligible retail customers, at the customers' meters, for the June 2009 to May 2010 plan year. Similarly, had Section 16-115D been in effect when the spring 2009 renewable energy resource procurement events took place, the Commission would have established and posted at that time the estimated ACP rates. However, since Section 16-115D became effective as of July 10, 2009, the Commission believes it is appropriate to provide these and related figures at this time.

In a Staff Report dated July 13, 2009, supported by the sworn and notarized affidavit of Richard J. Zuraski, a Senior Economist within the Commission's Energy Division, the Staff presents the data and makes the computations necessary for the Commission to present its calculations of the current maximum and estimated ACP rates for the June 2009 to May 2010 compliance period. Primarily, the Staff Report recommends that these data and the results of the Staff's computations of maximum and estimated ACP rates be approved by the Commission and posted to the ICC web site.

The Commission is satisfied with the analysis set forth in the Staff Report and accepts the Staff recommendations with respect to: the establishment of the maximum ACP rates for the June 2009 to May 2010 plan year; the forecasted load of eligible retail customers for purposes of computing actual ACP rates; the results of the spring 2009 procurements of renewable energy credits; the establishment of current estimates of the ACP rates for the June 2009 to May 2010 plan year; the date by which the Commission shall post the actual ACP rates for the June 2009 to May 2010 plan year; and the rounding of ACP rates to the nearest ten-hundredths of a cent per kilowatt-hour.

The Commission, being fully advised in the premises, is of the opinion and finds that:

- (1) the Commission has jurisdiction over the subject matter of this proceeding;
- (2) the Staff Report dated July 13, 2009 should be made a part of the record of this proceeding;
- (3) the recitals of fact set forth in the prefatory portion of this order are supported by the record, which consists of the Staff Report and the sworn and

notarized affidavit of Richard J. Zuraski, and are hereby adopted as findings of fact;

- (4) Central Illinois Light Company d/b/a AmerenCILCO, Central Illinois Public Service Company d/b/a AmerenCIPS and Illinois Power Company d/b/a AmerenIP (together the “Ameren Illinois Utilities” or “AIU”) and Commonwealth Edison Company (“ComEd”) are electric utilities that are subject to subsection (c) of Section 1-75 of the Illinois Power Agency Act;
- (5) new Section 16-115D of the Public Utilities Act (220 ILCS 5/16-115D) requires the Commission to post maximum, estimated, and actual alternative compliance payment (“ACP”) rates for the service territories of each electric utility that is subject to subsection (c) of Section 1-75 of the Illinois Power Agency Act (20 ILCS 3855/1-75);
- (6) it is reasonable and appropriate to round ACP rates to the nearest ten-hundredths of a cent per kilowatt-hour (i.e., four decimal places);
- (7) for June 2009 to May 2010, the maximum ACP rates, as defined in Section 16-115D of the Public Utilities Act, have been appropriately established to be 0.0938 cents per kilowatt-hour for AIU and 0.1007 cents per kilowatt-hour for ComEd;
- (8) for June 2009 to May 2010, the forecasted load of eligible retail customers, at the customers' meters, for purposes of computing ACP rates, has been appropriately established to be 17,700,273,734 kilowatt-hours for AIU and 39,469,951,534 for ComEd;
- (9) based on the results of the spring 2009 procurements of renewable energy credits (“RECs”), through which supplies were secured for 100% of the utilities’ REC requirements for the June 2009 to May 2010 plan year, the total amount of dollars expected to be spent on renewable resources during this period is \$11,420,450 for AIU and \$30,147,973 for ComEd;
- (10) based on the finding in paragraphs 7 and 8, above, it is reasonable to estimate that the actual ACP rates for the June 2009 to May 2010 plan year will be 0.0645 for AIU and 0.0764 for ComEd; and
- (11) new Section 16-115D of the Public Utilities Act requires the Commission to post actual ACP rates for the June 2009 to May 2010 plan year on or before July 1, 2010.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that, pursuant to Section 16-115D of the Public Utilities Act, for the June 2009 to May 2010 compliance period, the maximum ACP rates shall be 0.0938 cents per kilowatt-hour for

the service territories of AIU and 0.1007 cents per kilowatt-hour for the service territory of ComEd.

IT IS FURTHER ORDERED that, until and unless modified by the Commission, the Commission's current estimates of the actual ACP rates shall be 0.0645 for AIU and 0.0764 for ComEd.

IT IS FURTHER ORDERED that, pursuant to Section 16-115D of the Public Utilities Act, for June 2009 to May 2010, the forecasted load of eligible retail customers, at the customers' meters, for purposes of computing actual ACP rates, shall be 17,700,273,734 kilowatt-hours for AIU and 39,469,951,534 for ComEd.

IT IS FURTHER ORDERED that, within five business days of the date of this Order, the Staff of the Commission shall post to the Commission's web site the above-established maximum ACP rates, estimated ACP rates, and forecasted load of eligible retail customers at the customers' meters.

IT IS FURTHER ORDERED that the Staff Report dated July 13, 2009 is made a part of the record in this proceeding.

IT IS FURTHER ORDERED that a copy of this Order be served upon each electric utility and each certificated alternative retail electric supplier within Illinois, and the Attorney General of the State of Illinois.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 29th day of July, 2009.

(SIGNED) Charles E. Box

Chairman

**New requirements for the Commission to post  
“Alternative Compliance Payment” rates associated with the  
Public Utilities Act’s new Sec. 16-115D “Renewable portfolio  
standard for alternative retail electric suppliers and electric  
utilities operating outside their service territories,”  
established by Public Act 96-0033 (SB 1918 enrolled)**

***Staff Report***

**Presented to the  
Illinois Commerce Commission**

**July 13, 2009**

On July 10, 2009, the Governor signed into law Public Act 96-0033 (SB 1918 enrolled), which went into effect immediately. This law makes several revisions to the Illinois Power Agency Act and the Illinois Public Utilities Act and may have rulemaking implications for the Commission. However, this Staff Report focuses on just one aspect of the law; specifically, the requirement specified within new Section 16-115D of the Public Utilities Act (220 ILCS 5/16-115D) that the Commission establish and post on its web site alternative compliance payment rates. The Office of General Counsel is preparing a draft Order that should enable the Commission to satisfy its immediate obligations under the law to establish and post such alternative compliance payment rates. That draft Order and this Staff report may be presented to the Commission concurrently.

Under the new Section 16-115D, referenced above, alternative retail electric suppliers (“ARES”) are subject to a renewable portfolio standard. Virtually the same renewable portfolio standard requirements for ARES also apply to those Illinois utilities providing power and energy to Illinois retail customers outside their utility service territories. However, for ease of exposition, we shall refer only to ARES throughout this report.

One provision of the new law is that ARES must meet at least 50% of their renewable quota through alternative compliance payments (“ACPs”). These payments will then be used by the Illinois Power Agency (“IPA”) to purchase renewable energy on behalf of the people of Illinois. The law includes a formula for how these payments are to be computed. One component of the formula is the “actual alternative compliance rate.” There will be two such rates: one associated with ARES customer usage within

the service territory of the Ameren Illinois Utilities (“AIU”) and one associated with ARES customer usage within the Commonwealth Edison Company (“ComEd”) service territory. These “actual” ACP rates will not be known with complete certainty until after the compliance year has ended and final compliance payments are due. However, to provide interim guidance to ARES, “maximum” and “estimated” levels of the ACP rates are to be provided on an advanced schedule. In particular, the law requires the Commission to post the “maximum” ACP rates “within 5 business days after entering an order approving a procurement plan pursuant to Section 1-75 of the Illinois Power Agency Act,” and to post “estimates” of the ACP rates no later than 10 business days following renewable energy procurement events. We fully expect that there will continue to be only one set of spring procurement events, so the initial estimates derived from those spring procurement events should very accurately forecast the “actual” ACP rates, but the law is written to allow for the possibility of multiple procurement events per year.

To summarize, the law requires three types of calculations to be posted to the ICC web site each year:

<b>ACP Rate</b>	<b>What</b>	<b>When</b>
<b>Maximum</b>	Based on numbers in the approved procurement plan	Issued within 5-days of Commission order (e.g., in early January)
<b>Estimated</b>	Based on results of utility renewable procurement events	Issued within 10-days of renewable energy procurement events (e.g., in late spring)
<b>Actual</b>	Based on cumulative total of all renewable procurement events for the plan year	Issued by the July 1 following the end of the plan year

As far as administrative procedure is concerned, we would expect that, next year, the maximum ACP rates would be established in the record of the procurement plan docket, would be explicitly approved in the Commission order, and would then be posted on the ICC web site by Staff. We would expect that, next year, estimated ACP rates would be computed by the Staff in the course of reviewing the reports of the procurement monitor and procurement administrator following each REC procurement event, and these estimated rates could be approved by the Commission at the same time that it approves the procurement event’s bidding results. Finally, the “actual” ACP rates could be computed by Staff and brought to the Commission through a Staff report at an appropriate time (e.g., June 1, 2010), for approval by a Commission vote in a regular session sometime on or before July 1, 2010. More specific procedures could be addressed in the upcoming procurement plan docket.

While the above procedures will certainly work next year and thereafter, this year we will have to recognize that the deadlines for providing the **maximum** ACP rates and the **estimated** ACP rates came and went prior to the law going into effect. Nevertheless, based on receiving numerous requests from ARES, Staff understands that ARES are anxious to obtain both maximum and estimated ACP rates for the June

2009 to May 2010 plan year.<sup>1</sup> On or about June 1, 2009, Staff released to ARES informal calculations of **estimated** ACP rates, with the proviso that they were for informational purposes only and would be subject to review and approval by the Commission at a later date.

Furthermore, even with respect to the **actual** ACP rates, which must be computed by the Commission by July 1, 2010, the law, strictly interpreted, would require some of the data for those calculations (specifically, the forecasted loads of eligible retail customers at the customers' meters) to originate from the Commission's January 7, 2009 Order in Docket 08-0519. However, while those data are either in the record or in work papers provided to Staff along with the utility forecasts, they are not all explicitly present in the Commission's January 7, 2009 Order. Hence, in Staff's view, some variation from the literal provisions of the law will have to be accepted in order to comply with the spirit and intent of the law for this initial June 2009 to May 2010 plan year, unless Docket 08-0519 is reopened.

Specially, in lieu of reopening Docket 08-0519, Staff would recommend that, for purposes of implementing the law this year, the Commission enter an Order containing the Commission's findings of maximum ACP rates and estimated ACP rates, as well as the forecasted load of eligible retail customers at the customers' meters for purposes of computing actual ACP rates, and other related values. The basis for such findings would be this Staff report and the attestation of appropriate Staff members as to its veracity. The following is a detailed discussion of the data and computations that would support such findings:

First, the law states that the Commission shall establish maximum ACP rates, expressed on a per kilowatt-hour basis, and that

Each maximum alternative compliance payment rate shall be equal to the maximum allowable annual estimated average net increase due to the costs of the utility's purchase of renewable energy resources included in the amounts paid by eligible retail customers in connection with electric service, as described in item (2) of subsection (c) of Section 1-75 of the Illinois Power Agency Act for the compliance period, and as established in the approved procurement plan.

For AIU, the record in Docket 08-0519 establishes that, for June 2009 to May 2010, this maximum allowable rate increase and maximum ACP is 0.09379 cents per

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<sup>1</sup> Staff considered the **maximum** ACP rates for June 2009 to May 2010 essentially irrelevant after the REC RFPs had been held, thereby allowing a computation of **estimated** ACP rates. However, at least one ARES has indicated to Staff that it is still interested in receiving the maximum ACP rates for this period, for contractual purposes rather than RPS compliance purposes.

kilowatt-hour, even though this value is not reported in the Commission’s January 7 Order.<sup>2</sup>

For ComEd, the record in Docket 08-0519 is not as clear. For instance, neither the Commission’s Order nor the IPA’s plan specifies the maximum allowable annual estimated average net increase in per kilowatt-hour terms. It is specified in total dollars, rounded to \$39.7 million.<sup>3</sup> However, in ComEd work papers provided to Staff along with the company’s forecasts, it is possible to calculate the figure in per kilowatt-hour terms, as follows:

	ComEd Eligible Retail Customers Data			Calculation of 2009-2010 Price Increase Cap		
	Revenues	Metered Usage	Rate	0.5% of Rate	1% of 2006-2007 Rate	Max
	(thousands)	(MWHs)	(¢ per kwh)	(¢ per kwh)	(¢ per kwh)	(¢ per kwh)
2006-2007	\$3,736,750	39,802,463	9.3882	0.0469	0.0939	
2007-2008	\$4,205,234	39,109,145	10.7526	0.0538		
Sum				0.1007	0.0939	0.1007

Note that when this maximum allowable increase or maximum ACP rate of 0.1007 cents per kwh is multiplied by 39,469,951,534 kilowatt-hours (the forecasted usage of eligible retail customers, at the meter, for 2009 to 2010, as established further below), the resulting total dollar amount is \$39.747 million, which is consistent with the more-rounded figure of \$39.7 million found in the IPA plan.

Second, the law also states that following each procurement event through which renewable energy resources are purchased, the Commission shall establish and post on its website estimates of the ACP rates. Ultimately, the **actual** ACP rate “shall be equal to the total amount of dollars for which the utility contracted to spend on renewable resources for the compliance period divided by the forecasted load of eligible retail customers, at the customers' meters, as previously established in the Commission-approved procurement plan for that compliance year.” Hence, it would stand to reason that, at any interim point in time, an **estimated** ACP rate would be set equal to the then-estimated total amount of dollars to be spent divided by the same forecasted load of eligible retail customers that was established in the procurement plan. Since the spring 2009 procurement events successfully secured 100% of the required number of renewable energy credits (“RECs”), it is clear that the total expenditures that will occur for those RECs can be estimated with a relatively high degree of accuracy and certainty (barring currently unforeseen complications). Those very good estimates are shown below:

<sup>2</sup> Illinois Power Agency, *Initial Power Procurement Plan to the Illinois Commerce Commission*, October 20, 2008, page 11 of Attachment A. Filed Oct 21 2008 12:00AM by Henry T. Kelly on eDocket: [http://www.icc.illinois.gov/e-docket/reports/browse/document\\_view.asp?id=9040&no=08-0519&did=129996](http://www.icc.illinois.gov/e-docket/reports/browse/document_view.asp?id=9040&no=08-0519&did=129996).

<sup>3</sup> Illinois Commerce Commission, Order, Docket 08-0519, January 7, 2009, p. 32.

Utility	REC Expenditures	Source
AIU	\$11,420,450	Boston Pacific Company, Inc., "Post-Bid Report Of The Procurement Monitor For Ameren Illinois Utilities' 2009 Renewable Energy Credits RFP," May 19, 2009, p. 2; and verified by ICC Staff calculations.
ComEd	\$30,147,973	Boston Pacific Company, Inc., "Post-Bid Report Of The Procurement Monitor For Commonwealth Edison's 2009 Renewable Energy Credits RFP," May12, 2009, p. 2; and verified by ICC Staff calculations.

To convert these total dollars into an estimated ACP rate on a per kilowatt-hour basis, as prescribed in the law, we also need to have the "the forecasted load of eligible retail customers, at the customers' meters, as previously established in the Commission-approved procurement plan for that compliance year."

For AIU, this forecast is not explicitly reported in the Commission's January 7 Order. However, the record in Docket 08-0519 clearly establishes that, for June 2009 to May 2010, the forecasted load of eligible retail customers, at the customers' meters, was 17,700,273,734 kilowatt-hours.<sup>4</sup> Hence, for AIU, the best estimate of the ACP rate at present would be \$11,420,450 divided by 17,700,273,734 kilowatt-hours, which, when converted into cents per kilowatt-hours, is approximately 0.0645.

For ComEd, the record in Docket 08-0519 is not as clear. Neither the IPA plan nor the Commission Order reports the forecast of eligible retail customer load at the meter. However, in ComEd work papers provided to Staff along with the company's initial (July 15, 2008) forecast, it is possible to isolate the at-the-meter forecast for eligible retail customers at 39,469,951,534 kilowatt-hours. Hence, using this value, the best estimate of ComEd's ACP rate, at present, would be \$30,147,973 divided by 39,469,951,534 kilowatt-hours, which, when converted into cents per kilowatt-hours, is approximately 0.0764.

Finally, the law does not specify the degree of precision to be used in reporting ACP rates. However, Staff would propose to round all ACP rates to four decimal places, when the rates are expressed in cents per kilowatt-hour. This provides for approximately the same number of significant digits for ACP rates as was adopted (in the Docket 08-0519 Order) for the utilities' renewable budget constraints.

As Commission findings, the above discussion might be expressed more succinctly, as follows:

1. For June 2009 to May 2010, the maximum ACP rate shall be 0.0938 cents per kilowatt-hour for AIU and 0.1007 cents per kilowatt-hour for ComEd.
2. For June 2009 to May 2010, the forecasted load of eligible retail customers, at the customers' meters, for purposes of computing actual ACP rates, shall be 17,700,273,734 kilowatt-hours for AIU and 39,469,951,534 for ComEd.

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<sup>4</sup> Ibid.

3. Based on the results of the spring 2009 procurements of renewable energy credits ("RECs"), through which supplies were secured for 100% of the utilities' REC requirements for the June 2009 to May 2010 plan year, the total amount of dollars expected to be spent on renewable resources during this period is \$11,420,450 for AIU and \$30,147,973 for ComEd.

4. Based on finding paragraphs 2 and 3, above, it is reasonable to estimate that the actual ACP rates for the June 2009 to May 2010 plan year will be 0.0645 for AIU and 0.0764 for ComEd.

5. Actual ACP rates for the June 2009 to May 2010 plan year shall be established by the Commission on or before July 1, 2010, in accordance with new Section 16-115D of the Public Utilities Act.

6. Actual ACP rates for the June 2009 to May 2010 plan year shall be rounded to the nearest ten-hundredths of a cent per kilowatt-hour (i.e., four decimal places).

As far as posting this information to the internet for the benefit of ARES is concerned, it would probably be sufficient to post an Order, provided that it were to include something like the six recommended findings, above. However, it may serve the ARES public slightly better to post a table, as well, such as the one provided in Appendix 1 of this Staff Report.

**Appendix 1:**

**Maximum and Estimated ACP the June 2009 - May 2010 Plan Year  
Established by Order, ICC Docket 09-\_\_\_\_\_, July 29, 2009**

<b>Definition</b>	<b>symbol or equation</b>	<b>ComEd</b>	<b>Ameren</b>	<b>Units</b>
Forecasted load of eligible retail customers at the customer meter, as established in IPA plan, ICC Docket 08-0519	q	39,469,951,534	17,700,273,734	kwh
Max ACP = Max allowable increase in utility rates, as established in IPA plan, ICC Docket 08-0519.	m	0.1007	0.0938	cents/kwh
Utilities' contracted REC costs resulting from spring 2009 procurements	s	\$30,147,973	\$11,420,450	
Estimated ACP, as of spring 2009	100(s/q)	0.0764	0.0645	cents/kwh
Actual ACP will be established by July 1, 2010				

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission  
On Its Own Motion

Determination and posting of maximum and  
estimated "Alternative Compliance Payment"  
rates associated with the Public Utilities Act's  
new Section 16-115D "Renewable portfolio  
standard for alternative retail electric  
suppliers and electric utilities operating  
outside their service territories," established  
by Public Act 096-0033 (SB 1918 enrolled)

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**AFFIDAVIT OF RICHARD J. ZURASKI**

State of Illinois            )  
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County of Sangamon        )

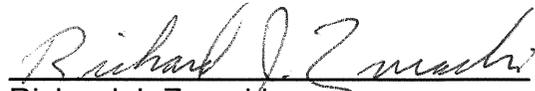
The undersigned, under oath, deposes and states as follows:

1. My name is Richard J. Zuraski. I am employed by the Illinois Commerce Commission ("Commission") as a Senior Economist in the Commission's Energy Division—Policy Program.

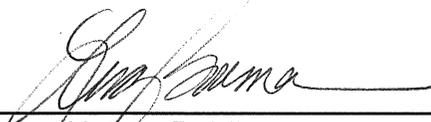
2. I prepared the document identified as *New requirements for the Commission to post "Alternative Compliance Payment" rates associated with the Public Utilities Act's new Sec. 16-115D "Renewable portfolio standard for alternative retail electric suppliers and electric utilities operating outside their service territories," established by Public Act 096-0033 (SB 1918 enrolled): Staff Report*, dated July 13, 2009, consisting of six pages of text followed by an "Appendix 1" on the seventh page ("Staff Report").

3. I have personal knowledge of the facts and matters discussed in the Staff Report and, to the best of my knowledge, information and belief, the facts and non-legal opinions expressed in the Staff Report are true and correct and, if sworn as a witness, I could testify concerning them.

Further affiant sayeth naught.

  
Richard J. Zuraski

Subscribed and sworn to before me  
this 13<sup>th</sup> day of July, 2009

  
\_\_\_\_\_  
Notary Public

