

**Report from the
Illinois Energy Efficiency Stakeholder Advisory Group
(IL EE SAG)
2016 Section 16-111.5B Workshop Subcommittee**

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Illinois Energy Efficiency Stakeholder Advisory Group 2016 Section 16-111.5B Workshop Subcommittee Report

Executive Summary

The Illinois Energy Efficiency Stakeholder Advisory Group (“SAG”) Facilitation Team¹ established the 2016 Section 16-111.5B Workshop Subcommittee (“IPA Workshop Subcommittee” or “Subcommittee”) to address five directives from the Illinois Commerce Commission (“Commission” or “ICC”) to SAG in ICC Docket No. 15-0541 Final Order, regarding approval of the 2016 Illinois Power Agency (“IPA” or “Agency”) Procurement Plan (“ICC Docket No. 15-0541 Final Order”). The five directives, or “issues” considered by the Subcommittee were:

1. Issue 1: Review and Update 2013 and 2014 Consensus Items (Consensus Items from Prior Years’ IPA Workshops)
2. Issue 2: What TRC-related information do utilities need to provide to the IPA for its analysis of duplicative programs?
3. Issue 3: How will the Section 16-111.5B bids be conducted when the Section 8-103 programs for the next three-year EE Plan have not yet been approved?
4. Issue 4: Administrative cost tracking, categorizing, reporting and analysis (TRC analysis for Section 16-111.5B programs)
5. Issue 5: Develop a plan to ensure that Section 16-111.5B contracts receive the same level of scrutiny as Section 8-103 contracts. How can performance risk be addressed through the Section 16-111.5B RFP process?

This IPA Workshop Subcommittee Report summarizes the work and conclusions of the 2016 IPA Workshop Subcommittee. More specifically, it identifies the Subcommittee’s objective, process and participants as well as the issues addressed including the status of resolution, consensus language (See Attachment A), and non-consensus items (See Attachment B). Attachment C contains a more detailed record of process – the dates and times the Subcommittee met, as well as the agenda and follow-up items from each meeting.

The SAG Facilitation Team appreciates the good faith participation by interested parties in the IPA Workshop Subcommittee meetings, which included active and extensive discussion. The IPA Workshop Subcommittee process achieved resolution on many issues, yielded a more precise and refined description of issues, and produced a significantly more complete record of discussion and support for various positions. Non-consensus issues are indicated in this report for each issue, as applicable, and in a Summary Non-Consensus Comparison Exhibit (See Attachment B).

A. Objective

The primary objective of the 2016 IPA Workshop Subcommittee meetings was to address directives from the Commission to the SAG in the ICC Docket No. 15-0541 Final Order. ICC Docket No. 15-0541 includes a petition by the IPA for approval of the 2016 IPA Procurement Plan (“2016 IPA Plan”), as required by Section 16-111.5(d)(4) of the Illinois Public Utilities Act (“Act” or “PUA”). The 2016 IPA Plan was approved by the Commission in December 2015, however the Commission directed SAG to discuss and/or attempt to reach consensus on several issues through workshops. IPA Workshop Subcommittee meetings were held from January to July 2016. An overview of the issues discussed in the IPA Workshop Subcommittee meetings is described below in Section E, Issues Addressed.

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B. Disclaimer

SAG discussions are intended to be in the nature of settlement discussions. As a matter of general agreement, written and/or oral positions or statements made by another party during SAG meetings shall not be used by any party to contradict or impeach another party's position, or prove a party's position, in a Commission proceeding.

C. Process

The SAG Facilitation Team sent a notice of directives to SAG and upcoming IPA Workshop Subcommittee meetings to the SAG distribution list in early January 2016. All SAG participants were invited to participate in the first IPA Workshop Subcommittee meeting. During the first meeting, IPA Workshop Subcommittee participants and the SAG Facilitation Team determined it was necessary to limit consensus discussions to non-financially interested parties due to the sensitive nature of the issues and the concern that potential bidders for 2017 third-party energy efficiency ("EE") programs would receive an unfair advantage by participating in IPA Workshop Subcommittee meetings. For that reason, the remaining IPA Workshop Subcommittee meetings were closed to all financially-interested parties. The SAG Facilitation Team thus included the following participation rule in the IPA Workshop Subcommittee Plan and circulated it to the SAG distribution list:

Stakeholder Participation Restrictions for Financially-Interested Parties. Attendance and participation in the 2016 Illinois Power Agency Workshops is open to all interested stakeholders. However, there may be agenda items during this process that require open discussion between Program Administrators and non-financially interested stakeholders, involving confidential and/or proprietary information. Confidential and/or proprietary topics will be identified by the SAG Facilitation Team in advance. Participants with a financial interest (e.g. current and prospective program implementers, contractors, and product representatives) must recuse themselves from attending confidential and/or proprietary meetings. For the purposes of the 2016 IPA Workshop Subcommittee, SAG participants who expect to bid into IPA procurement shall identify and recuse themselves from discussions.

The SAG Facilitation Team held ten (10) IPA Workshop Subcommittee meetings from January through July 2016. Meeting invitations, actions items, and draft proposed language were circulated directly to non-financially interested participants by email, as requested by Subcommittee participants. Meeting materials were not posted on the public SAG website.²

D. Participation

Utility participants in the IPA Workshop Subcommittee meetings included Ameren Illinois Company d/b/a Ameren Illinois ("Ameren Illinois"), Commonwealth Edison Company ("ComEd"), and Northern Illinois Gas Company d/b/a Nicor Gas ("Nicor Gas"). Non-financially interested governmental stakeholder participants included the Illinois Attorney General's Office ("IL AG"), Illinois Department of Commerce and Economic Opportunity ("Department"), Commission Staff ("ICC Staff"), and IPA. Non-financially interested non-governmental stakeholders include Natural Resources Defense Council ("NRDC") and Environmental Law and Policy Center ("ELPC"). Representatives from the Illinois Industrial Energy Consumers ("IIEC") did not participate in IPA Workshop Subcommittee meetings, but requested to be included on the email distribution list to follow the discussion of issues.

² Illinois Energy Efficiency Stakeholder Advisory Group website: www.ilsag.info.

E. Issues Addressed

SAG Facilitation identified five key issues for discussion in the IPA Workshop Subcommittee meetings. Each issue is described below, including background, consensus language, and areas of non-consensus, as applicable. Section names from the ICC Docket No. 15-0541 Final Order are included for reference.

Issue 1: Section 7.1.3 – Whether the Plan Should Include 2013 and 2014 Consensus Items.

Background

The Commission encouraged SAG to review and discuss the 2013 and 2014 Consensus Items from prior Section 16-111.5B Workshops that were identified in the 2016 IPA Procurement Plan, in order to discuss any items that should be removed from future Procurement Plans due to staleness.³ The Subcommittee reviewed the Consensus Items identified in the 2016 IPA Procurement Plan to determine which were stale, contradictory, or no longer in consensus. Participants reviewed and submitted comments to SAG Facilitation on the 2013 and 2014 Consensus Items that were identified in the 2016 IPA Procurement Plan. In subsequent Subcommittee meetings, participants discussed comments, edits to language, and open issues. The IPA Workshop Subcommittee Writing Team reviewed the Consensus Items that needed editing and consolidating for clarity. Edited Consensus Items were reviewed by participants during the course of multiple teleconference meetings and participants were provided over fifteen (15) business days to review and provide any feedback or suggested edits to the language. In addition, Subcommittee participants discussed how to memorialize the 2016 Section 16-111.5B Energy Efficiency Consensus Items, including whether to incorporate language as part of Illinois Energy Efficiency Policy Manual Version 2.0.

Consensus

- I. The 2016 Section 16-111.5B Energy Efficiency Consensus Items are available for review in Attachment A. Attachment A will be available on the SAG website⁴ and the IPA intends to include these items in its 2017 IPA Procurement Plan. The 2016 Section 16-111.5B Energy Efficiency Consensus Items will be included in Illinois Energy Efficiency Policy Manual Version 2.0, prior to the request for approval from the Commission.⁵
- II. The 2014 Consensus Item below conflicts with the Illinois Energy Efficiency Policy Manual Version 1.0, approved by the Commission in December 2015, on deeming and evaluation for future Section 16-111.5B energy efficiency programs. Specifically, the conflict concerns the 2014 Consensus Item provision that provides for annual updates to savings goals based on annually updated net-to-gross (“NTG”) ratios, whereas the Policy Manual Version 1.0 only provides for one update to savings goals based on updated NTG ratios available prior to the start of the first program year of an approved Section 16-111.5B program. The paragraph below was removed from the updated Consensus Items list in Attachment A, as this issue is already covered in the Policy Manual. The parties identified language related to the Illinois Technical Reference Manual (“IL-TRM”), which is consistent with the Policy Manual, to be included as a Consensus Item, recognizing that the actual change to the Policy Manual will be made during the Policy Manual Version 2.0 update

³ See ICC Docket No. 15-0541 Final Order at 84-85.

⁴ See http://www.ilsag.info/il_power_agency.html.

⁵ Note: Policy Manual Version 2.0 discussions are currently on hold to complete the Portfolio Planning Process. The Policy Manual Subcommittee Version 2.0 process is anticipated to begin following Commission approval of the Electric Program Years 10-12 and Gas Program Years 7-9 Energy Efficiency Plans.

process. Any additional policy changes to the adjustable goals process will be discussed by the Policy Manual Version 2.0 Subcommittee.

Multi-year contracts should be constructed to re-negotiate savings calculations based on annual IL-TRM and NTG updates and should leave open the possibility for utilities to update savings calculations and contract terms based in part on IL-TRM updates or errata and NTG updates.

Issue 2: Section 7.1.4 – What TRC-related information do utilities need to provide to the IPA for its analysis of duplicative programs?

Background

In the ICC Docket No. 15-0541 Final Order pertaining to the 2016 IPA Procurement Plan, the Commission indicated there was a difference in positions between parties regarding the up-front information provided to the IPA to evaluate whether a program is duplicative, and directed SAG to discuss the issue in workshops.⁶ The Commission also directed SAG to discuss this issue to ensure “that the parties are on the ‘same page’ regarding the information that the IPA needs for its independent assessment as to whether a Section 16-111.5B energy efficiency program is duplicative with a Section 8-103 program.”⁷ The Subcommittee discussed the information that Ameren Illinois and ComEd have submitted to the Agency in past Procurement Plans to evaluate whether programs are duplicative, as well as how Ameren Illinois and ComEd will respond to additional requests for information from the Agency in future Procurement Plan proceedings.

Consensus

The utilities provide the IPA with sufficient TRC-related information to allow the IPA to make its determination about whether a program is “duplicative.” This information has included bid analysis, underlying bid documents, and an identification of whether the programs have been deemed “duplicative” or “competing.” The utilities have been submitting adequate information for making that determination as part of their July 15 submittals, and have made additional information available to the Agency upon request.

While the ICC Docket No. 15-0541 Final Order does not require a utility to conduct TRC tests for programs it designates as “duplicative” in its July 15 submittal, each utility retains the option to choose to do so. After a utility submission to the IPA on July 15, and upon request by the IPA to a utility to perform a TRC test on a program that the IPA believes is not duplicative, the utility shall use its best efforts to provide a TRC analysis to the IPA within a reasonable time period. If the IPA makes a determination to disagree with the duplicative determination of the utility, the IPA will include in its Procurement Plan a written explanation of the differing positions, including the utility position related to the duplicative determination.

⁶ See ICC Docket No. 15-0541 Final Order at 89-91: “Both the IPA and Ameren have valid points. The IPA is concerned with having enough information up front regarding an EE program and Ameren is concerned with the time and expense involved in conducting TRC analyses of bids made by entities that do not follow the directions on Ameren’s RFP form... It may be possible to find some common ground between the IPA’s position and Ameren’s by exploring the topic in workshops conducted by the SAG. Perhaps additional information would be helpful up front, without the necessity of a full TRC analysis. Or, it may be possible that some parts of the TRC analysis could be conducted preliminarily, without the necessity of a full TRC analysis. Other ways may bridge the gap between Ameren’s position and the IPA’s. Exactly what information the IPA needs up front should be discussed in SAG workshops and hopefully resolved therein.”

⁷ Id. (“No party has stated what in a TRC analysis is critical for the IPA’s independent assessment as to whether an EE program is duplicative. It is more logical, at this time, to ensure via SAG workshops that the parties are on the “same page” as to what information the IPA needs to determine whether that information can be tendered without a formal TRC analysis, and then, if need be in the future, revisit this issue with concrete information.”)

Issue 3: Section 7.1.4 – How will the Section 16-111.5B bids be conducted when the Section 8-103 programs for the next three-year EE Plan have not yet been approved?

Background

The Commission directed SAG to address the challenge of expanding Section 8-103 programs through Section 16-111.5B in the next IPA Procurement Plan, given the fact that the three-year EE Plans beginning on June 1, 2017 have not yet been approved by the Commission.⁸ The Commission also directed SAG to address other topics related to this issue.⁹ Section 16-111.5B calls for the Commission to “approve the energy efficiency programs and measures included in the procurement plan, including the annual energy savings goal, if the Commission determines they fully capture the potential for all achievable cost-effective savings, to the extent practicable, and otherwise satisfy the requirements of Section 8-103 of this Act.”¹⁰

The Subcommittee discussed a number of planning and contract issues, including whether there are contractual mechanisms that could address uncertainty around expanded Section 8-103 programs; and whether conditional approval of expanded programs could be a pathway for inclusion. The Subcommittee addressed the approaches that Ameren Illinois and ComEd will take for the Section 16-111.5B bidding process in spring 2016. The Subcommittee also discussed related questions at a high level, including: i) Request For Proposals (“RFP”) timing; ii) RFP scope; iii) Planning; iv) Expansion process; v) Conditional triggers; vi) RFP structure; vii) RFP disclosure; and viii) Uncertainty in Section 8-103 EE Plans.

Ameren Illinois and ComEd have somewhat different approaches to addressing these issues. The Subcommittee concluded that both approaches achieve the objectives of Section 16-111.5B despite structural differences between the two. The consensus approaches are described below.

Consensus

Ameren Illinois Approach to IPA 2017 Electricity Procurement Plan Process

Ameren Illinois will take a consistent approach to the Section 16-111.5B programs for the 2017 Procurement Plan that it has taken with each of its past Section 16-111.5B RFPs. However, the RFP may vary from previous RFPs in order to incorporate applicable terms resulting from the recent Commission Orders or directives, the IPA Workshop Subcommittee or SAG plan development process, and to account for the fact that there are no Section 8-103 programs currently approved for the applicable program year(s). The RFP seeks bid responses for programs that reduce electric consumption for electric ratepayers. Copies of all bids will be provided to IPA, as well as an assessment of bids and a recommendation as to whether each bid should be approved.

Specifically:

⁸ See ICC Docket No. 15-0541 Final Order at 93-94: “The Commission recognizes the challenges of “expansion” of Section 8-103 programs when the portfolio for such programs has not yet been approved. This creates a natural tension: while unapproved programs cannot easily be “expanded,” the law calls for IPA plans to fully capture the potential for all achievable cost-effective savings, which presumably includes expanded Section 8-103 programs. In recognition of this challenge, the Commission directs the SAG to address this topic at workshops. These workshops should demonstrate a genuine commitment to resolving this problem, consistent with the goal of capturing all achievable energy savings. It should also consider solutions such as the conditional approval of Section 8-103 program expansions in the IPA’s 2017 Plan and potential contractual mechanisms to accommodate the uncertainty that is present when there is an unapproved Section 8-103 portfolio.”

⁹ Id. (“The best course of action, with regard to planning, duplication, and many other related topics, would be to address these topics at workshops conducted by the SAG.”)

¹⁰ 220 ILCS § 5/16-111.5B(a)(5)

- For third-party programs, Ameren Illinois will use the same process that has been in place for the last several years. An RFP solicitation will be issued. A team of internal and external individuals will be formed to review the bids. All bids will be sent to the IPA.
- For third-party programs that would duplicate programs Ameren Illinois plans to propose for inclusion in its Section 8-103 / 8-104 Plan, Ameren Illinois may request that the potentially duplicative third-party program only be conditionally approved or approved with conditions pursuant to Section 16-111.5B in the event that the Commission does not approve a duplicative Section 8-103 / 8-104 program in Ameren Illinois' Section 8-103 / 8-104 Plan proceeding.

ComEd Approach to IPA 2017 Electricity Procurement Plan Process

ComEd will take the same approach to the Section 16-111.5B programs for the 2017 Procurement Plan that it has taken in prior years, when a new three-year EE Plan filing has yet to be approved by the Commission. Specifically, ComEd placed the Residential Lighting, Home Energy Reports and Small Business Direct Install programs into the Section 16-111.5B IPA Procurement Plan process, effectively setting their Section 8-103 Energy Efficiency Portfolio Standard (“EEPS”) program sizes to zero and using the IPA to capture all cost-effective opportunities to “expand” these programs. ComEd’s rationale is that these “expanded” programs would be otherwise unduly constrained under EEPS. This approach was approved by the Commission in the 2014 IPA Procurement Plan proceeding.¹¹

Specifically:

- For ComEd-managed programs within the Section 16-111.5B submittal, ComEd will submit the same three programs to the IPA as were included in the 2015 and 2016 Procurement Plans – Residential Lighting, Home Energy Reports and Small Business Direct Install.
- For third-party programs, ComEd will use the same process that has been in place for the last several years. An RFP solicitation will be issued. A team of internal and external individuals will be formed to review the bids. For third-party programs that would duplicate programs ComEd plans to propose for inclusion in its Section 8-103 EE Plan, ComEd may request that the potentially duplicative third-party program only be conditionally approved pursuant to Section 16-111.5B in the event that the Commission does not approve the Section 8-103 duplicative program in ComEd’s Section 8-103 EE Plan proceeding.
- Prior to the July 15 submittal to the IPA, ComEd will review whether there are other candidate programs to either expand or fund wholly using the IPA Procurement Plan process.

Issue 4: Section 7.1.5.2 – Administrative cost tracking, categorizing, reporting and analysis (TRC analysis for Section 16-111.5B programs)

Background

The Commission’s ICC Docket No. 15-0541 Final Order directed SAG to discuss what administrative costs should be tracked, and how they should be categorized, reported and used in the TRC analysis.¹² The Commission also directed the Subcommittee to consider ICC Staff’s proposal for reporting administrative costs¹³ and whether any additional reporting is needed.¹⁴

¹¹ See ICC Docket No. 13-0546.

¹² In the ICC Docket No. 15-0541 Final Order discussion of administrative costs regarding whether to include the Ameren Illinois Potential Study as an administrative cost, the Commission stated: “The Commission agrees with Staff and the IPA. Ameren’s potential study is not a cost which was incurred in administering any particular program. As Staff has pointed out, including costs in a TRC Test analysis of a particular program that do not involve that specific program skews the test results.” See ICC Docket No. 15-0541 Final Order at 95.

¹³ In Staff’s Response (p. 13) filed in ICC Docket No. 15-0541, Staff clarified that although it supported the IPA’s recommendation that the program-level TRC analysis should exclude certain fixed administrative costs that do not change with

The Subcommittee discussed the Ameren Illinois and ComEd current practice for cost tracking, categorizing, and reporting administrative costs as well as what costs are included in the TRC analysis. The Subcommittee also discussed whether cost categories should align with the Policy Manual Version 1.0 definitions, and how administrative costs should be tracked and reported going forward.

Past and Current Practice

The past and current practices for how Ameren Illinois and ComEd have tracked administrative costs and treated such costs in the TRC calculation are summarized below.

Ameren Illinois

- *June 1, 2014 through May 31, 2015 and before:* Admin Cost = 14.5% Adder¹⁵ (administration, marketing & outreach, and evaluation).
- *June 1, 2015 to May 31, 2016: Program-Specific Section 16-111.5B Costs:* In PY8, Ameren Illinois started tracking costs by program that are easily assignable to specific programs per the Commission Final Order in the 2015 IPA Procurement Plan (ICC Docket No. 14-0588), including evaluation (3%), administration, and marketing & outreach. This tracking began on June 1, 2015.
- *Non-Program Specific Section 16-111.5B Costs:* In PY8 Ameren Illinois is separately tracking administrative, marketing & outreach, and evaluation that cannot be easily assigned to programs, then allocating to programs on a pro rata share based on the size of the program's budget.
- *Prior to the 2016 Section 16-111.5B RFP process:* Ameren Illinois calculated the TRC for its Section 16-111.5B programs using all expected costs associated with running Section 16-111.5B programs, which includes both program-specific and non-program specific Section 16-111.5B costs related to administration, evaluation, and marketing & outreach.

ComEd

- *Before 2015:* ComEd tracked costs, but the TRC calculation did not include any administrative costs.
- *Beginning in 2015:* ComEd calculated an administrative costs adder using historic information about program-specific Section 16-111.5B costs – 8.5% administrative costs plus 3% evaluation costs (based on approximately 1.5 years of data). An 11.5% adder was used for Program Year 9.

the number of Section 16-111.5B energy efficiency programs undertaken and would still exist in cases where zero Section 16-111.5B energy efficiency programs are implemented (e.g., Potential Study costs), such fixed administrative costs should still be reported in the utilities' Section 16-111.5B energy efficiency assessments as a line item so that the Commission is aware of such costs and they can be considered in the rate impact analysis. The "rate impact analysis" that Staff was referring to pertains to the 2013 consensus item concerning the reporting of "budgets" and "impact on EE rider surcharge," which is consistent with the analysis that Ameren has appropriately included in its Section 16-111.5B energy efficiency assessment submittals. (See [14-0588 2015 Procurement Plan Appendix B \(Section 16-111.5B submittal\)](#) at 16-17, Table 5: EE Cost Impact on Customer Bills; [15-0541 2016 Procurement Plan Appendix B \(Section 16-111.5B submittal\)](#) at 2-3, 25-26; [13-0546 2014 Procurement Plan Appendix B-1](#) at 27 (or p. 14 of the 16-111.5B submittal).) In ComEd's Reply (p. 3), it expresses confusion as to what Staff means by "rate impact analysis" and indicates that such reporting may be duplicative of what is already provided to the Commission in the annual reconciliation process, and thus may be unnecessary.

¹³Illinois Energy Efficiency Policy Manual Version 1.0 Portfolio Cost Categories include: i) Demonstration of Breakthrough Equipment and Devices Cost; ii) Evaluation Cost; iii) Marketing Cost; iv) Portfolio Administrative Cost. See IL EE Policy Manual Version 1.0, Section 5, Cost Categories.

¹⁴ICC Docket No. 15-0541 Final Order at 97-98: "It seems that even after the Commission ordered the utilities to track their administrative costs in Docket No. 14-0588, the utilities are not clear as to what administrative costs should be tracked, and, as ComEd has noted, it is unclear what Staff proposes with respect to additional reporting and whether it is needed. These topics should be thoroughly addressed and determined with specificity in workshops conducted by the SAG."

¹⁵Note: This was a selected value used in Program Year 7. This was a disputed issue that the Commission directed SAG to discuss in ICC Docket No. 14-0588.

- *Program-Specific Section 16-111.5B Costs:* Costs that are easily assignable are tracked by program, including evaluation (3%) and administration (program-specific). ComEd will update 8.5% administrative costs in spring 2016 and likely on an annual basis.
- *Non-Program Specific Section 16-111.5B Costs:* ComEd is separately tracking non-program specific administrative & evaluation costs. ComEd does not have Section 16-111.5B-related, non-assignable marketing & outreach costs.
- *Beginning in 2015:* ComEd calculates the TRC for its Section 16-111.5B programs using program assignable costs only. ComEd runs the TRC in two ways: one with program-specific administrative and evaluation costs, one without. ComEd does not calculate the Section 16-111.5B program TRCs with non-program specific Section 16-111.5B costs.

Consensus

Ameren Illinois and ComEd completed the tables below to provide information on categorizing Section 16-111.5B administrative costs. Table 1a summarizes Ameren Illinois’ administrative costs. Table 1b summarizes ComEd’s administrative costs.

Table 1a: Ameren IL - Section 16-111.5B Administrative Costs			
Categorizing Costs			
Types of Costs	Is this cost treated as a general administrative cost or program-specific administrative cost?	If this cost is a general administrative cost, is it a largely fixed cost (non-scalable) or is it a cost that’s linearly scalable with the budget of approved programs?	Rationale for Categorizing General Administrative Costs as Scalable or Non-Scalable¹⁶
Potential Study	General	Fixed	Does not change with number of bids
RFP Development	General	Fixed	Does not change with number of bids
Bid Review Process	General	Fixed/Scalable	Changes with number of bids
Regulatory Review Process	General	Fixed/Scalable	Portions of the work are fixed others scale with number of bids
Contract Development and Negotiation	Program Specific	Scalable	Changes with number of programs
Contract Management	Program Specific	Scalable	Changes with number of programs
Marketing	General	Scalable	Changes with number of programs
Evaluation	Program Specific	Scalable	Changes with number of programs
Reporting			
Types of Costs	Is this projected cost reported in the submittal to IPA?¹⁷	Is this cost provided in reconciliation docket(s)?¹⁸	
Potential Study	Yes	Yes	
RFP Development	Yes	Yes	
Bid Review Process	Yes	Yes	
Regulatory Review Process	Yes	Yes	

¹⁶ If costs are picked up outside the Rider, these costs are not included even if they are program-specific.

¹⁷ If costs are picked up outside the Rider, these costs are not included even if they are program-specific.

¹⁸ All Ameren Illinois employees are included in base rates.

Table 1a: Ameren IL - Section 16-111.5B Administrative Costs

Contract Development and Negotiation	Yes	Yes
Contract Management	Yes	Yes
Marketing	Yes	Yes
Evaluation	Yes	Yes
TRC Test		
Types of Costs	Is this projected cost included in individual program screening TRC calculation? ¹⁹	Is this cost included in the ex post program third party TRC?
Potential Study	No	No
RFP Development	No	No
Bid Review Process	Scalable Only	Scalable Only
Regulatory Review Process	Scalable Only	Scalable Only
Contract Development and Negotiation	Yes	Yes
Contract Management	Yes	Yes
Marketing	Yes	Yes
Evaluation	Yes	Yes

Table 1b: ComEd - Section 16-111.5B Administrative Costs

Categorizing Costs			
Types of Costs	Is this cost treated as a general administrative cost or program-specific administrative cost?	If this cost is a general administrative cost, is it a largely fixed cost (non-scalable) or is it a cost that's linearly scalable with the budget of approved programs?	Rationale for Categorizing General Administrative Costs as Scalable or Non-Scalable
Potential Study	General Administrative	Fixed	These Costs are not a function of program count or budget, so scaling is not appropriate
RFP Development	General Administrative	Fixed	
Bid Review Process	General Administrative	Fixed	
Regulatory Review Process	General Administrative	Fixed	
Contract Development and Negotiation	Program Specific		
Contract Management	Program Specific		
Marketing	NA		
Evaluation	Program Specific		
Reporting			
Types of Costs	Is this projected cost reported in the submittal to IPA?	Is this cost provided in reconciliation docket(s)? ²⁰	
Potential Study	No	Yes	
RFP Development	No	Yes	

¹⁹ If costs are picked up outside the Rider, these costs are not included even if they are program-specific.

²⁰ Unless covered in base rates, before Rider EDA was passed.

Table 1b: ComEd - Section 16-111.5B Administrative Costs		
Bid Review Process	No	Yes
Regulatory Review Process	No	Yes
Contract Development and Negotiation	No	Yes
Contract Management	No	Yes
Marketing	NA	NA
Evaluation	No	Yes
TRC Test		
Types of Costs	Is this projected cost included in individual program screening TRC calculation?	Is this cost included in the ex post program third party TRC?
Potential Study	No	No
RFP Development	No	No
Bid Review Process	No	No
Regulatory Review Process	No	No
Contract Development and Negotiation	Yes (Admin Adder)	Yes (Admin Adder)
Contract Management	Yes (Admin Adder)	Yes (Admin Adder)
Marketing	NA	NA
Evaluation	Yes (Eval Adder)	Yes (Eval Adder)

Subcommittee participants agreed to the consensus language below regarding cost tracking, reporting, and cost-effectiveness.

Cost Tracking and Reporting

Ameren Illinois and ComEd shall track the costs described below, and assign costs to either Section 16-111.5B or Section 8-103 energy efficiency programs. However, stakeholders may not see the allocation of costs between Section 16-111.5B and Section 8-103 programs during the applicable reconciliation docket with the Commission. Instead, ComEd and Ameren Illinois will provide allocated costs between Section 8-103, 8-104 and 16-111.5B programs in the Program Administrator Annual Report²¹ to SAG as described below.

Section 16-111.5B Costs incurred by the Program Administrator: Costs incurred due to Section 16-111.5B statutory requirements.

Program-Specific Section 16-111.5B Costs: Costs incurred due to specific Section 16-111.5B program(s). *Program-Specific Section 16-111.5B Costs* should be reported in the cost categories set forth below, which includes the following Policy Manual Version 1.0 cost categories:

- Evaluation (3%);²²
- Administration;²³ and

²¹ Program Administrator Annual Report refers to the report referenced in Subsection 6.6 Program Administrator Annual Summary of Activities (Annual Report) of the Policy Manual Version 1.0, ICC Final Order Docket No. 15-0487 Appendix at 19-20.

²² Evaluation Cost means “any costs incurred in the scope of work for Evaluators hired pursuant to Section 8-103(f)(7) and 8-104(f)(8) of the Act, including no more than three percent (3%) of Portfolio resources (approved Plan budgets).” See Policy Manual Version 1.0, Section 5.2, Portfolio Cost Categories at 15.

- Marketing (including education and outreach).²⁴
- *Non-Administrative Program-Specific Section 16-111.5B Costs* are defined as costs incurred due to Section 16-111.5B program(s) that do not otherwise fall under the Policy Manual Version 1.0 cost categories of Evaluation, Administration, and Marketing as specified above. *Non-Administrative Program-Specific Section 16-111.5B Costs* should be reported in the following Policy Manual Version 1.0 Program Cost Categories: Incentives and Non-Incentive Costs.²⁵

Non-Program-Specific Section 16-111.5B Costs: Costs incurred due to Section 16-111.5B that are not program-specific, reported in the following Policy Manual cost categories:

- Evaluation (3%);
- Administration; and
- Marketing (including education and outreach).

General Administrative Scalable Costs are defined as costs incurred due to Section 16-111.5B that are not program-specific and that increase as the budget of approved programs increases (i.e., linearly scalable with the budget of approved programs). Within the category *Non-Program-Specific Section 16-111.5B Costs*, costs can be scalable or non-scalable. “Scalable costs” are costs that are linearly scalable with the budget of approved programs. “Non-scalable costs” are costs that are largely fixed. Ameren Illinois and ComEd shall categorize all *Non-Program Specific Section 16-111.5B Costs* in one of two categories: scalable or non-scalable. Upon request, ComEd and Ameren Illinois shall identify which costs it has included in the “Non-Program-Specific” cost categories and whether the costs are considered scalable or non-scalable, as well as provide a rationale for the categorization.

Cost-Effectiveness

The following costs incurred by Ameren Illinois and ComEd will be included in cost-effectiveness analysis per Section 16-111.5B:

- *Program-Specific Section 16-111.5B Costs:* Costs incurred due to specific Section 16-111.5B program(s).
- *General Administrative Scalable Costs:* Costs incurred due to Section 16-111.5B that are not program-specific and that increase as the budget of approved programs increases (i.e., linearly scalable with the budget of approved programs).

²³ Id. Portfolio Administrative Cost means “a cost that may be incurred by a Program Administrator, contractor, or subcontractor that is not easily attributable to a specific Program or other cost categories, but benefits all functions of the Energy Efficiency Portfolio. Examples of Portfolio Administrative Costs include, but are not limited to, the following: a. Managerial and clerical labor; b. Human resources support, training and employee development; c. Travel and conference fees; d. Overhead (general and administrative, e.g., accounting, facilities management, procurement, administrative, communications, information technology and systems, telecommunications, data tracking etc.); e. Equipment (e.g., communications, computing, copying, general office, transportation, etc.); f. Office supplies and postage; g. Potential studies and market assessments; h. Portfolio Plan development; i. Litigation and cost recovery; and j. Legal and regulatory support and expenses.

²⁴ Id. Marketing Cost means the costs of marketing and outreach, which has a purpose of acquiring Program participation or consumer understanding of Section 8-103 and 8-104 Programs. It includes, but is not limited to, the costs for: a. Full-service marketing services, concepts and campaign strategy planning, including labor; b. Developing a marketing plan, timeline, budget and progress reports; c. Coordination and implementation of all marketing activities, including scheduling events, media buys, etc.; d. Promotional materials, including, general awareness and events; e. Website; f. Training of Trade Allies and Trade Ally expo events; g. Public relations, including community outreach; and h. General marketing primarily designed to increase other overall Program participation rather than claiming direct savings (e.g., an online audit tool or community challenge).

²⁵ See Policy Manual Version 1.0, Section 5.3, Program Cost Categories for Section 8-103 and 8-104 Programs at 16.

Regarding *Non-Program Specific Section 16-111.5B Costs*, the Subcommittee also discussed whether non-scalable (i.e., fixed) costs should be included in TRC calculation for Section 16-111.5B programs (e.g., including the Potential Study as a cost in the TRC Test).²⁶ The utilities will take the following approaches for 2017 IPA Procurement Plan programs:

- **Ameren Illinois:** To the extent Ameren Illinois does incur such costs (and they are expected to be incurred), the prudently and reasonably incurred Non-Program-Specific Section 16-111.5B fixed costs will be recovered from customers through Rider EDR and no party has objected to the concept of such recovery.²⁷
- **ComEd:** ComEd does not plan to include non-scalable costs in the TRC calculation for Section 16-111.5B programs.

Non-Consensus

Reporting

Proposed consensus language: *Ameren Illinois and ComEd shall report all Section 16-111.5B projected costs in the annual Energy Efficiency Assessment²⁸ submitted to IPA annually on July 15 for the sake of transparency and so the Commission and interested stakeholders have an understanding of the total expected energy efficiency spending related to implementation of Section 16-111.5B.*

- Non-consensus issue: Whether Ameren Illinois and ComEd should include the expected Section 16-111.5B administrative costs for the next year by reporting costs in the annual Section 16-111.5B Energy Efficiency Assessment, submitted to IPA on July 15.²⁹

Issue 5: Section 7.1.6.4 – Develop plan to ensure that Section 16-111.5B contracts receive the same level of scrutiny as Section 8-103 contracts. How can performance risk be addressed through the Section 16-111.5B RFP process?

Background

The Commission directed Ameren Illinois and ComEd “to develop a plan to implement use of the same scrutiny for Section 16-111.5B contracts as that for Section 8-103 contracts through workshops conducted by the SAG.”³⁰ Subcommittee participants interpreted this directive as relating to the whole process of contracting, which was not limited solely to contract language. The Subcommittee began by discussing the current practice for Section 16-111.5B procurement of programs, including the RFP process; bid evaluation process; information included in the IPA Procurement Plan; what is approved by the Commission; contracting; and contract management.

Subcommittee participants are interested in high quality, cost-effective programs for ratepayers through the Section 16-111.5B procurement process (i.e., through the RFP, bid evaluation, and contracts process).

²⁶ See ICC Docket No. 15-0541 Final Order at 97 (emphasis added): “The Commission agrees with Staff and the IPA. Ameren’s potential study is not a cost which was incurred in administering any particular program. As Staff has pointed out, **including costs in a TRC Test analysis of a particular program that do not involve that specific program skews the test results.**”

²⁷ Subject to a full reservation of Ameren Illinois’ rights to raise and litigate these issues with the Commission in the future, and in the spirit of collaboration and limiting the contested issues in the upcoming Commission docket relating to the Program Year (“PY”) 10 IPA Electric Procurement Plan, Ameren Illinois will not include the potential study costs or non-program specific fixed costs in the total resource cost test analysis of the PY10 bids.

²⁸ The annual Energy Efficiency Assessment refers to the assessment required by Section 16-111.5B(a)(3) of the PUA.

²⁹ Note: This relates to a 2013 Consensus Item: For general reporting purposes, it would be appropriate to report each Section’s EE goals, achieved savings, budgets, and impact on EE rider surcharge to show the impact of the utilities’ EE portfolios across the state, both individually and collectively, so that progress can be tracked separately for each EE portfolio.

³⁰ ICC Docket No. 15-0541 Final Order at 110-112.

Stakeholders are interested in applying a similar process as the Section 8-103 contract negotiation, contracts and contract management process for Section 16-111.5B programs.

Current Practice for Section 16-111.5B Program Procurement

A brief summary of the current practice for Section 16-111.5B program procurement includes the following:

a. RFP process

Ameren Illinois and ComEd are responsible for the third-party energy efficiency program RFP process, managed by each utility's procurement, sourcing, and/or energy efficiency departments. The draft RFP document and the bid evaluation form are shared with key stakeholders, including ICC Staff and IPA.

b. Bid evaluation process

Ameren Illinois

Ameren Illinois shares third-party energy efficiency program bids with IPA, ICC Staff, the Illinois Attorney General's Office, and all stakeholders who sign a Non-Disclosure Agreement ("NDA"). Ameren Illinois reviews the bids to ensure they are responsive to the RFP. Ameren Illinois also provides the bids to the Department, which reviews to determine the impact to its market, including a determination of duplicative or competitive programs. Ameren Illinois works with stakeholders to try and reach consensus on whether the program is duplicative. Ameren Illinois works with bidders to ensure that proper information is provided, including TRC assumptions. There may be a need to refine a bid so that a vendor provides quality information to allow for accurate TRC analysis. An Ameren Illinois planning consultant provides TRC analysis using BenCost model.³¹ The planning consultant releases the RFP and manages questions with bidders. The planning consultant also performs independent savings calculations, utilizing the Illinois Statewide Technical Reference Manual for Energy Efficiency ("IL-TRM"). Ameren Illinois planners review TRC results and provide the results to reviewers. Meetings are held with stakeholders to discuss any concerns and feedback regarding bids. Based on that information, Ameren Illinois prepares a submission to the IPA. In light of the regulatory process as well as the pay for performance contract structure, Ameren Illinois does not engage in contract price negotiations for approved Section 16-111.5B programs.

Ameren Illinois provides a summary of bids to the IPA, including: 1) Cost-effectiveness results; 2) Additional information on bids; and 3) Whether the bid is duplicative of another bid or a Section 8-103 program, or competing with another current or potential program.

ComEd

ComEd reviews third-party energy efficiency program bids to ensure they are responsive to the RFP. After the initial review, bids are shared with stakeholders and internal reviewers. Bid review includes both external and internal reviewers. At this point, ComEd may reach out to bidder(s) if additional information is needed. While bids are under review, ComEd's planning team performs the TRC analysis using DSMore³² and scrutinizes TRC inputs. RFP review includes two mandatory threshold criteria: 1) The bid must be cost-effective; and 2) The bid is not duplicative. ComEd also reviews the strength of

³¹ Note: BenCost is a cost-effectiveness model used for planning. AEG uses the BenCost framework and customizes the model for Ameren Illinois.

³² Note: DSMore is a cost-effectiveness model used for planning.

approach and the strength of the bidding team. ComEd planners review the measure list for third-party bids, including a comparison to the IL-TRM and any workpaper(s) provided by the bidder. External reviewers provide bid scores, and the Department reviews bids that could impact their market. Finally, bids identified as a performance risk are flagged with explanation provided, including the potential risk issue. ComEd does not necessarily review contracts for price issues for approved Section 16-111.5B programs, as pay-for-performance contracts are utilized.

ComEd provides a summary of bids to the IPA, including: 1) A description of each program; 2) Cost-effectiveness results; 3) Whether the program is duplicative; and 4) Any issues with the bid that may impact Commission approval.

ComEd's philosophy is that part of the purpose of third-party energy efficiency programs is to foster innovation, so there is a limit to how much ComEd directs program design. There is negotiation involved in ComEd's bid review process, but it is not focused on the design of the program. Instead, it is focused on whether the program is duplicative. ComEd reviews potential issues and proposes a strategy to address overlap, to minimize confusion in the marketplace. This may involve discussions with the potentially impacted ComEd program manager.

c. What is included in the IPA Procurement Plan

IPA Response (for ComEd and Ameren Illinois)

The IPA includes all documents provided by Ameren Illinois and ComEd that are not marked as "confidential" as Appendices to the IPA Procurement Plan. However, the IPA may or may not agree with information submitted by the utilities on cost-effectiveness, duplication of programs, performance risk, etc. For that reason, the IPA Procurement Plan may reflect a different view than the documents submitted by the utilities to the IPA. The IPA must include all programs in the IPA Procurement Plan that are cost-effective, even if there are issues in a third-party energy efficiency program bid that a party or parties believe should cause the Commission to reject approval.

The Subcommittee also discussed the following points regarding stakeholder review of the draft IPA Procurement Plan:

1. Bid Issues

- The IPA receives comments on the draft IPA Procurement Plan regarding issues with particular bids. How do parties (other than ICC Staff, IPA and the Illinois Attorney General's Office who receive confidential information by statute) get access to confidential information?
 - Response: Parties can file for a Protective Order as soon as the IPA files its Procurement Plan with the Commission.³³ Ameren Illinois and ComEd work with non-financially interested parties to allow access to the information needed to review IPA bids, subject to a Non-Disclosure Agreement.

2. TRC Inputs

- ICC Staff Request: ICC Staff would like batch files, including the TRC analysis of programs, prior to July 15 (this includes inputs and outputs).
 - Response: ComEd will provide. Ameren IL will provide, subject to appropriate agreed-upon protections.

³³ Note: IPA files in late September.

- Other Non-Financially Interested Stakeholders: Certain stakeholders may want access to TRC inputs prior to the IPA Procurement Plan filing in late September. How can access to this information be provided?
 - Response: Ameren Illinois data contains proprietary information; therefore TRC analysis is confidential and is not provided until appropriate protections are in place. Ameren Illinois works with non-financially interested parties to allow access to the information needed to review Section 16-111.5B bids and TRC inputs, subject to a Non-Disclosure and Confidentiality Agreement.

d. What the Commission approves

By statute, the Commission is directed to “approve the energy efficiency programs and measures included in the procurement plan, including the annual energy savings goal, if the Commission determines they fully capture the potential for all achievable cost-effective savings, to the extent practicable, and otherwise satisfy the requirements” of Section 8-103 of the PUA. In determining the limitations of “to the extent practicable,” it is unclear what specific factors the Commission might consider, however in previous dockets the Commission has acknowledged this discretion.³⁴

e. Contracting

Ameren Illinois

Ameren Illinois notifies vendor(s) if their bid has been approved by the Commission. Ameren Illinois asks if the vendor needs to update, not change, any information in the bid based on changed market conditions. At this point, there will be an updated version of the IL-TRM and Net-to-Gross (“NTG”) values to review. Based on updating IL-TRM and NTG information and following the approved Illinois Energy Efficiency Policy Manual requirements, Ameren Illinois re-verifies that the program still has a TRC greater than 1.0.

For contracts with vendors, Ameren Illinois offers pay-for-performance agreements. The pay-for-performance contract is based on the measures installed. Each measure has a savings associated with it. Prior to Program Year 9, vendors could request some money up-front, limited to ten percent (10%) of the bid price, or a cap of \$300,000.

There is an issue in the ComEd reconciliation docket for Program Year 6 regarding disallowance of a Commission-approved Section 16-111.5B program where the program vendor went insolvent during the program year (discussed further below).³⁵ Since the Commission disallowed the costs associated with Project Porchlight, Ameren Illinois’ existing payment structure for future third-party energy efficiency program vendors has changed.

For the current third-party energy efficiency program vendor contracting process, Ameren Illinois intends to utilize the following payment terms: 1) No start-up costs for approved vendor programs; 2) Contract holdback of five percent (5%), subject to final evaluation results³⁶; and 3) Requiring vendors to obtain a surety bond for twenty-five percent (25%) of the annual contract cost, though changes in this approach will be made as appropriate. If the actual savings from a vendor program are less than reported, the surety bond ensures the bidder will have sufficient funds to reimburse ratepayers for savings that were paid but never realized.

³⁴ See ICC Docket No. 15-0541 Final Order at 100-103; 266; ICC Docket No. 13-0546 Final Order at 148-149.

³⁵ See ICC Docket No. 14-0567 Final Order at 29-30.

³⁶ Final evaluation results are typically available 4-6 months following the close of a Program Year.

ComEd

Prior to Program Year 8, ComEd made up-front payments to vendors. Under the current practice, all payments to vendors are based on proof of delivery using methodologies reviewed by the independent evaluator. ComEd and the vendor determine payment details during contract negotiation. There is an issue in the ComEd reconciliation docket for Program Year 6 regarding disallowance of a Commission-approved Section 16-111.5B program, Project Porchlight, where the program vendor went insolvent during the program year.³⁷ Since the Commission disallowed the costs associated with Project Porchlight, ComEd's existing payment structure for future third-party energy efficiency program vendors has changed. ComEd included the following information in the 2017 RFP:

“IMPORTANT NOTIFICATION TO BIDDERS: ComEd's existing payment structure for the IPA Third Party Efficiency Programs, described in this Pricing and Budgets section, are subject to change. Based on the outcome of open docket 14-0567, ComEd may elect to transition to an annual invoicing schedule (rather than monthly), which would correlate to payment for delivered kWh savings after the completion of Evaluator's independent evaluation of savings. If this change goes into effect, all bidders will be promptly notified.”

For the current third-party energy efficiency program vendor contracting process, ComEd utilizes the following payment terms: 1) No start-up costs for approved vendor programs; and 2) Contract holdback of ten percent (10%) for measures with savings deemed by the IL-TRM and twenty-five percent (25%) for measures with savings not deemed by the IL-TRM.

f. Contract management

Ameren Illinois

Vendors that implement Section 16-111.5B third-party energy efficiency programs are allowed to use the Ameren Illinois name and “ActOnEnergy” energy efficiency brand, if desired. Small programs may choose not to utilize the Ameren Illinois branding. Vendors provide an implementation plan that is reviewed and approved by Ameren Illinois. Ameren Illinois monitors each vendor's implementation plan to track performance. If vendors are off-track compared to the implementation plan, Ameren Illinois asks what the vendor will do to correct their performance issue(s).

ComEd

ComEd's primary focus is to ensure adherence to contracts. This includes measure mix and how savings are calculated. ComEd works carefully with the independent evaluator to ensure a 100% realization rate. This process differs from Section 8-103 energy efficiency programs, where program managers are focused on driving participation. Unlike Ameren Illinois, ComEd does not authorize vendors to utilize the ComEd “Smart Ideas” energy efficiency brand, except for the ComEd-managed Section 16-111.5B programs.

Current Practice for Section 8-103 and Section 16-111.5B Contract Scrutiny

Section 16-111.5B contracts and Section 8-103 contracts receive the following level of scrutiny:

1. RFP Process:

³⁷ See ICC Docket No. 14-0567 Final Order at 29-30.

- a. Section 16-111.5B RFPs get circulated to non-financially interested stakeholders for review. All non-financially interested stakeholders may gain access to confidential information during the RFP process by complying with utility non-disclosure requirements, as requested by Ameren Illinois and ComEd.
 - b. In past years, Section 8-103 RFPs have not typically been circulated to non-financially interested stakeholders for review.
- 2. Bid Evaluation:**
- a. Bid responses to Section 16-111.5B RFPs are circulated to non-financially interested stakeholders signing NDAs for review. Subject to agreeable terms, bid reviewers receive extensive details on bid proposals. Utilities should identify various concerns and/or issues with bids, including but not limited to: performance risk, vendor risk, and technology risk. Bid reviewers shall have the opportunity to make a recommendation to the utilities on whether or not the Commission should approve the Section 16-111.5B program in light of the bid review.
 - b. Bid responses for Section 8-103 RFPs are not circulated to stakeholders for review. However, during EE Plan filings, there is an opportunity for public review of the utility's proposed high-level program designs in the filings. In past EE Plan dockets, significant stakeholder scrutiny on program participation levels and other key inputs has occurred.
- 3. Commission Review:**
- a. Under Section 16-111.5B, IPA files a Procurement Plan at the Commission which goes through a docketed proceeding. The Procurement Plan includes high-level information on programs with details of specific programs provided in the utility July 15 Energy Efficiency Assessment included as attachments to the IPA Procurement Plan.
 - b. Under Section 8-103, utilities file an EE Plan that goes through a docketed proceeding. This Plan includes detailed program information, providing stakeholders with a greater level of detail than the IPA Procurement Plan docket, which considers approval of the Section 16-111.5B programs.
- 4. Commission Approval:**
- a. In the IPA Procurement Plan dockets, the Commission may approve all cost-effective programs, but may reject a cost-effective program using its discretion, for example a program that creates performance risks or any program for which the costs are more than the "Cost of Supply."³⁸
 - b. In Section 8-103 three-year EE Plan dockets, the utilities submit a portfolio of programs for Commission approval. The portfolio is required to be cost-effective. The Commission may reject any program or direct the utility to make changes to specific program(s).
 - c. In IPA Procurement Plan dockets, the Commission approves programs that are proposed and implemented by third-party vendors as well as utility proposed expanded Section 8-103 programs that are implemented by utility contractors.
 - d. In Section 8-103 EE Plan dockets, the Commission approves utility proposed programs that are implemented by utility contractors, as applicable.
- 5. Contracting:**
- a. Section 16-111.5B contracts between Ameren Illinois, ComEd and vendors include provisions that address items like general conditions, price, holdback, program savings and implementation details. Additional terms (i.e., savings, price, performance issues) are not negotiated. Beginning with Program Year 9, contracts may not include up-front payments. Ameren Illinois included an additional contract requirement in the 2017 RFP process: a surety bond requirement for non-performance (to address the situation when reported savings are less than evaluated savings). ComEd and Ameren Illinois are considering changing payment terms given the disallowance in ICC Docket No. 14-0567.

³⁸ See ICC Docket No. 15-0541 Final Order at 100-101.

- b. Section 8-103 contracts between utilities and vendors include general conditions, price, holdback, savings, and implementation details. Utilities negotiate contract terms to ensure high-quality, well-priced programs.
- 6. Contract Management:**
- a. Contract management for Section 16-111.5B programs is for adherence to general conditions; price and savings goals consistent with Commission approval of the bid. Ameren Illinois requires similar and in many respects the same conditions from Section 16-111.5B and Section 8-103 vendors. For Section 8-103 contracts, Ameren Illinois takes an active role in determining how to remedy performance shortfalls, subject to the approved program design. For Section 16-111.5B contracts, Ameren Illinois requires vendors to provide a plan to remedy performance shortfalls subject to the approved program design. Ameren Illinois allows vendors to use the “Ameren Illinois” brand in marketing programs. ComEd does not manage vendor performance for Section 16-111.5B vendors and does not allow vendors to use the “ComEd” brand for marketing.
 - b. Contracts for Section 8-103 vendors include general conditions, price, savings, and specific implementation details. Ameren Illinois and ComEd manage performance for Section 8-103 vendors, which are treated as utility programs.

Consensus

As described above in Current Practice for Section 8-103 and Section 16-111.5B Contract Scrutiny, the sections summarizing RFP Process, Bid Evaluation, and Commission Approval are in consensus.

Non-Consensus

The following sections on Current Practice for Section 8-103 and Section 16-111.5B Contract Scrutiny are non-consensus:

1. **Commission Review:** Whether ComEd should provide to the IPA and the Commission a revised / second TRC analysis using reasonable savings estimates for Section 16-111.5B bid responses that include inflated savings in order to provide the Commission with a more realistic TRC result.
2. **Contracting:**
 - a. *Contract Negotiation:* Whether utilities should negotiate Section 16-111.5B programs for price, savings, and performance during the bid evaluation process and additionally should recommend to the Commission that “risky” programs be rejected.³⁹
 - b. *Payment Terms:* Whether contract payment terms such as surety bond requirements and post-evaluation payment structures should be utilized by the utilities in Section 16-111.5B energy efficiency program contracts with third-party vendors.
3. **Contract Management:** Whether ComEd should engage in “active” contract management for Section 16-111.5B third-party energy efficiency programs.

F. Next Steps

For consensus issues, the IPA may include the 2016 Section 16-111.5B Energy Efficiency Consensus Items in its 2017 IPA Procurement Plan and request Commission approval of such consensus language in the 2017 IPA Procurement Plan docket in fall 2016. For non-consensus issues, the IPA may request

³⁹ Stakeholder-proposed language on Contract Management (alternative to Item 6 above in Current Practice): “Section 16-111.5B contracts should be managed in the same manner that Section 8-103 contracts are managed (i.e., vendors should be allowed to co-brand with the utility; if a Section 16-111.5B program is experiencing performance issues, Ameren Illinois and ComEd should work with that vendor to correct the program; etc.).”

resolution from the Commission in the 2017 IPA Procurement Plan docket in fall 2016. The IPA will attach the final IPA Workshop Subcommittee Report, 2016 Section 16-111.5B Energy Efficiency Consensus Items, and Summary Comparison Exhibit of Non-Consensus Issues to the 2017 IPA Procurement Plan.

G. Attachments

Attachments to this IPA Workshop Subcommittee Report include the following:

- Attachment A: 2016 Section 16-111.5B Energy Efficiency Consensus Items
- Attachment B: Summary Comparison Exhibit of Non-Consensus Issues
- Attachment C: IPA Workshop Subcommittee Schedule

Attachment A: 2016 Section 16-111.5B Energy Efficiency Consensus Items⁴⁰

Section 1: Section 16-111.5B Programs

This section references various policies for electric utilities managing Section 16-111.5B Programs.

- i. Planning:
 - a. Section 8-103 Portfolio savings and 16-111.5B Program savings shall be tracked separately. Some Programs may be funded by both Sections 8-103 and 16-111.5B, in which case an allocation methodology for savings may be used.
 - b. Section 8-103 and 16-111.5B budgets shall be tracked separately.
- ii. Procurement:
 - a. Electric utilities shall include all bids and bid reviews in their Energy Efficiency Assessments submitted to IPA pursuant to Section 16-111.5B(a)(3).
 - b. Under the use of pay for performance contracts, the Commission may authorize on a Program basis, a maximum energy savings target and spending cap.
 - c. To the extent that parties are concerned with Energy Efficiency replacing power purchase needs under Section 16-111.5B, it would be appropriate for the IPA, in consultation with ICC Staff, the utilities and/or Evaluators, to estimate the amount that the Section 16-111.5B Programs reduce the IPA's need to procure supply, to serve as a check on the utilities' original estimate required by Section 16-111.5B(a)(3)(G), and to provide useful information to Customers.
 - d. The Commission may determine how the additional information provided pursuant to Section 16-111.5B (a)(3)(D)-(E) should be used as necessary to resolve issues raised in docketed proceedings.
- iii. Coordination of Section 8-103 and Section 16-111.5B Programs:
 - a. The utilities shall identify new or expanded Cost-Effective Energy Efficiency Programs or Measures that are incremental to those included in Energy Efficiency and demand-response Plans approved by the Commission pursuant to Section 8-103 of the Illinois Public Utilities Act in the annual Energy Efficiency Assessment they submit to the IPA, unless Section 8-103 Programs are already expected to achieve the maximum achievable Cost-Effective savings.⁴¹ An "expansion" of a Section 8-103 Program per Section 16-111.5B is not strictly defined.
 - b. When Section 8-103 Programs are expanded, they should be administered in such a way as to facilitate utility tracking of the original Section 8-103 portion and the Section 16-111.5B portion of the expanded Program.
- iv. Cost-Effectiveness:
 - a. All Section 16-111.5B Programs included in the Section 16-111.5(b) Procurement Plan must be Cost-Effective at the planning stage, including Programs serving Low Income Customers.
 - b. Cost-ineffective Programs should be dropped during the Procurement Plan proceeding or prior to implementation, should analysis show that the Program is no longer Cost-Effective.

⁴⁰ See Illinois Energy Efficiency Policy Manual Version 1.0, approved in December 2015, for a Glossary of defined terms (Section 1). Terms defined in the Policy Manual are capitalized herein.

⁴¹ See Section 16-111.5B(a)(3)(C).

- c. Section 16-111.5B(a)(3)(D) can be interpreted as the Utility Cost Test, and should be calculated for each Program.
- v. Budget Allocation:
 - a. Funds approved pursuant to Section 16-111.5B shall not be spent on Programs that were not approved in an IPA Procurement Plan docket.
 - b. Expenditures on evaluation should be capped for the Section 16-111.5B Programs as they are for the Section 8-103 Programs. Each Program's evaluation budget should not be restricted to three percent (3%) of the Program budget, but evaluation costs should be limited to three percent (3%) of the combined Section 16-111.5B Programs' budget.
- vi. Savings:
 - a. When a Section 8-103 Program is expanded into Section 16-111.5B, the savings from the expanded portion of the Program count toward Section 16-111.5B. However, the savings from the non-expanded portion of the Program count toward the utility's Section 8-103 savings goal. Commensurately, when a Section 16-111.5B Program is expanded into the utility's Section 8-103 Portfolio, the savings from the expanded portion of the Program count toward the utility's Section 8-103 savings goal, while the savings from the non-expanded portion of the Program count toward Section 16-111.5B.
- vii. Management of Programs:
 - a. Expenditures shall be reviewed for operational prudence and reasonableness in a docketed reconciliation proceeding. However, there is no proceeding required for energy savings per Section 16-111.5B.

Section 2: Program Flexibility and Budgetary Shift Rules

- i. Expansion of Section 16-111.5B Programs
 - a. Electric utilities should have the capability for any of the Section 16-111.5B Programs to be able to expand into the Section 8-103 Portfolio for a given Program Year, at the utility's discretion, if: (1) the Section 16-111.5B savings goal for the Program from the Commission Order in the procurement plan case or compliance filing/contract is achieved, and the approved budget (from Commission Order in the Procurement Plan docket) is exhausted; and (2) the electric utility has budget available in the Section 8-103 Portfolio.
- ii. Budget Shifts
 - a. The utilities may shift up to 20% of the budget across Program Years for multi-year Section 16-111.5B Programs, assuming the shift remains within the total approved multi-year Program budget, to allow for successful Programs to continue operation in the early (or later) Program Years of a multi-year contract. In such a situation, the kWh savings goals and budgets would be cumulative for the number of years of the contract. Electric utilities should make the vendor aware of the expansion and budget shift options in advance so as to help avoid Program disruption.
- iii. Vendor Contracts

- a. The utilities have primary responsibility for prudently administering the contracts with the vendors approved by the Commission for the Section 16-111.5B Energy Efficiency Programs.
- b. Utilities should have flexibility to structure Section 16-111.5B contracts in a manner which best balances the potentially competing objectives of making the procurement process attractive to as many bidders as possible, protecting ratepayers and providing confidence that the savings which are proposed/bid will actually be delivered.
- c. Once the Commission approves the procurement of Programs pursuant to Section 16-111.5B(a)(5), the utilities and approved vendors should move forward in negotiating the exact terms of the contract based on the terms of the RFP and the bid itself (and that are “not significantly different” from the initial bid), with the clarification that negotiation around details of the contract/scope of work/implementation plan still might need to occur depending on a variety of factors (e.g., lessons learned since bid submittal, updates to the IL-TRM and NTG, changes in the market, desire to add new Measures).
- d. The utilities should use reasonable and prudent judgment in negotiating the exact terms of the Section 16-111.5B vendor contract after Commission approval and should rely upon the available information and ensure that any modifications continue to result in a Cost-Effective Program. Negotiations may result in reasonable adjustments to savings goals for the Program in comparison to the amount proposed in the bid and reasonable and prudent modifications to the cost structure which are in line with the original design. Once a Section 16-111.5B Program is approved by the Commission, the vendor has the opportunity to negotiate different participation rates and/or Measure levels. Once the contract is signed, those Measures / participation rates will be fixed for the life of the contract for the purpose of setting annual savings goals. However, the vendor and the utility may negotiate a change in the Measure mix, for Program implementation and goal attainment purposes. Some degree of flexibility within a Program is allowed for vendors implementing Programs under Section 16-111.5B. Vendor flexibility is not allowed insofar as the modifications to the Section 16-111.5B Program result in the following: (1) less confidence in the quality of service; (2) the addition of new Energy Efficiency Measures with no confidence in the savings; (3) duplicates other Energy Efficiency Programs; (4) a cost-ineffective Energy Efficiency Program; or (5) a completely different Energy Efficiency Program proposed in comparison to what was bid and approved.
- e. The utilities/IPA should share the description of the vendor’s Program included in the draft Procurement Plan with the vendor to help ensure the Program is accurately characterized.
- f. A process for vendors to submit Program changes should be clearly conveyed to all Section 16-111.5B vendors by the utilities. If a vendor decides to add (or remove) Energy Efficiency Measures midstream, they should seek approval from the utility for such changes prior to implementing the change in order to allow for possible contract renegotiations. Vendors are allowed to receive credit for energy savings from implementing new Energy Efficiency Measures if they have received pre-approval from the utility for adding that new Energy Efficiency Measure. To help protect against gaming, any Energy Efficiency Measure that has not received pre-approval from the utility or is not included in the vendor’s approved proposal should not be considered for energy savings.
- g. The utility should notify the IPA, ICC, and the SAG when it has stopped negotiations with an approved Section 16-111.5B Program vendor and a contract agreement cannot be reached, and if it has terminated a contract with an approved Section 16-111.5B Energy Efficiency Program vendor. The utility should notify the Commission in a filing in the IPA Procurement Plan case in which the Program was approved (similar to the approach ComEd used for PY7 and the approach proposed by Ameren in Docket No. 13-0546, Order at 112; Ameren RBOE at 14).

- h. The utilities should notify the SAG and keep the IPA apprised of any expected shortfalls in savings from approved Section 16-111.5B Programs. The utility should notify the Commission of changes made, in comparison to the approved Section 16-111.5B Programs.
- i. ComEd and Ameren Illinois will provide all costs allocated between Section 8-103, 8-104 and 16-111.5B Programs in the Program Administrator Annual Report produced pursuant to the provisions of Subsection 6.6 Program Administrator Annual Summary of Activities (Annual Report) set forth in Policy Manual Version 1.0, ICC Final Order Docket No. 15-0487 Appendix.
- j. For purposes of the Section 16-111.5B Programs Adjustable Savings Goals policy approved in Illinois Energy Efficiency Policy Manual Version 1.0 (ICC Final Order Docket No. 15-0487 Appendix), the Measure participation levels identified in the executed contract to derive the energy savings goals shall be fixed for the life of the contract for the purpose of setting the annual adjusted energy savings goal.

Section 3: Evaluation Policies

- i. Technical Reference Manual
 - a. The Illinois Statewide Technical Reference Manual (IL-TRM) and the IL-TRM Policy Document apply to Section 16-111.5B Programs.
 - b. For Section 16-111.5B Programs, there may be limited circumstances where deviation from the IL-TRM may be appropriate; the utility/vendor should have the option to make the case for the circumstance. However, the IL-TRM values must also be provided for comparison purposes, by filing in the IPA Procurement Plan docket in which the proposed Section 16-111.5B Programs are considered for approval.
- ii. Evaluation of Section 16-111.5B Programs

Evaluators and electric utilities managing Section 16-111.5B Energy Efficiency Programs shall follow these evaluation policies:

- a. Evaluation of the Section 16-111.5B Programs should be performed by the Section 8-103 Program Evaluators, and coordinated with Section 8-103 Programs.
- b. Ex-post Cost-Effectiveness analysis should be performed for the Section 16-111.5B Programs, using actual participation data, consistent with Section 8-103 evaluation policies and practices.
- c. Section 16-111.5B Program evaluation reports should be filed in the IPA Procurement Plan docket in which the Programs were approved.
- d. Evaluation plans for Section 16-111.5B Programs should be tailored based on the size and content of the Program. Consistent with the Section 8-103 evaluation process, Evaluators may conduct process evaluations where justified, to encourage improvement in the implementation of the Section 16-111.5B Programs. The value of this effort must be weighed against the cost of conducting such an evaluation for a Program that is: a) not unique or innovative; b) achieves very small savings; or c) is not likely to gain traction as an ongoing Program either in future Section 16-111.5B Program processes or as part of the Section 8-103 Portfolio.

Attachment B: Summary Comparison Exhibit of Non-Consensus Issues⁴²

IPA Workshop Subcommittee Report: Summary Comparison Exhibit of Non-Consensus Issues			
Issue	Non-Consensus	Position 1	Position 2
<p>Issue 4: Administrative cost tracking, categorizing, reporting and analysis (TRC analysis for Section 16-111.5B programs)</p>	<p>Reporting: Whether Ameren Illinois and ComEd should include the expected Section 16-111.5B administrative costs for the next year by reporting costs in the annual Section 16-111.5B Energy Efficiency Assessment, submitted to the IPA on July 15.</p>	<p>All projected energy efficiency costs should be reported in the Energy Efficiency Assessment⁴³, because rate impact is not reported in the reconciliation docket. The Commission should be informed of all of the projected costs associated with implementing Section 16-111.5B, including administrative costs, for the next year, for the sake of transparency concerning expected spending of ratepayer funds. The ICC regularly receives requests from the public concerning the amount of energy efficiency spending projected for future years. Utility reporting of Section 16-111.5B projected energy efficiency spending in their Energy Efficiency Assessment submittals that are filed in the Procurement Plan docket is the logical location that such information should be provided so that the information is publicly available to interested parties and to the ICC.</p>	<p>Ameren Illinois and ComEd may choose to report all administrative costs in their annual Section 16-111.5B assessments or other additional information that they believe is relevant to the Commission, Agency, or interested stakeholders, but are required to report 1) only those administrative costs which impact the cost-effectiveness assessment of individual programs as understood through prior Commission Orders and 2) all other information required by statute under Section 16-111.5B(a)(3)(A)-(G). Other administrative costs beyond those impacting the TRC analysis of individual programs are already reported to the Commission in reconciliation filings, and requiring the submittal of additional information not required by statute is unnecessary and not contemplated by the governing law.</p>
<p>Issue 5: Develop a plan to ensure that Section 16-111.5B contracts receive the same level of scrutiny as Section 8-103 contracts. How can performance risk be addressed through the</p>	<p>Commission Review: Whether ComEd should provide to the IPA and the Commission a revised / second TRC analysis using reasonable savings estimates for Section 16-111.5B bid responses that include inflated savings in</p>	<p>The original TRC and revised TRC should be provided, and the Commission makes the final decision whether to approve the program. Utilities should provide bid evaluation comments under a protective order.</p>	<p>The utilities re-calibrate savings if there are errors in bid proposals. Due to timing, it would be difficult to meet this level of scrutiny. The vendor submitting a program bid is the expert on that program – subject to check on what is included in the IL-</p>

⁴² This summary document is for illustrative purposes only and should not be construed to limit any party’s positions in a docketed proceeding. The parties’ positions on these issues may vary, be expanded or modified in a docketed proceeding, as necessary.

⁴³ The Energy Efficiency Assessment refers to the assessment required by Section 16-111.5B(a)(3) of the PUA.

IPA Workshop Subcommittee Report: Summary Comparison Exhibit of Non-Consensus Issues			
Issue	Non-Consensus	Position 1	Position 2
Section 16-111.5B RFP process?	order to provide the Commission with a more realistic TRC result.	Scrutiny should be provided on all fronts to protect ratepayers.	TRM. Utilities also request workpapers from bidders, which are reviewed by the engineering team, evaluators, and others, if possible.
	<p>Contracting a. Contract Negotiation: Whether utilities should negotiate Section 16-111.5B programs for price, savings, and performance during the bid evaluation process and additionally should recommend to the ICC that "risky" programs be rejected.</p>	Utilities should negotiate Section 16-111.5B programs for price, savings, and performance as aggressively as Section 8-103 programs, and additionally should recommend to the ICC that "risky" programs be rejected to protect ratepayers. Consistency between the utilities is important. Current approaches are too "hands off", which may cause harm to ratepayers.	Utilities should not have the sole obligation to negotiate Section 16-111.5B programs for price, savings, and performance. Utilities are required to enter into contracts with vendors for all cost-effective programs that are approved by the Commission. Utilities do not have the sole obligation to review bids and recommend to the ICC that "risky" programs be rejected; utilities are required to follow the Section 16-111.5B requirements.
	<p>Contracting b. Payment Terms: Whether contract payment terms such as surety bond requirements and post-evaluation payment structures should be utilized by the utilities in Section 16-111.5B energy efficiency program contracts with third-party vendors.</p>	Surety bond requirements should not be utilized in Section 16-111.5B contracts, as they may have a "chilling effect" on programs and harm ratepayers. Post-evaluation payment structures are unnecessary and potentially destructive to the acquisition of third-party Section 16-111.5B programs.	Reasonable surety bond requirements and post-evaluation payment structures should be utilized in Section 16-111.5B contracts, to protect ratepayers from third-party vendor program performance issues.
	<p>Contract Management: Whether ComEd should engage in "active" contract management for Section 16-111.5B third-party energy efficiency programs.</p>	"Active" contract management is utilized for Section 8-103 energy efficiency program contracts, and should also be utilized for Section 16-111.5B third party vendor contracts to manage vendor performance. Consistency between the utilities is important. Current approaches are too "hands off", which may cause harm to ratepayers.	Utilities are required to follow the Section 16-111.5B requirements, and enter into contracts with vendors for all cost-effective programs that are approved by the Commission. There may be differences in contract management for Section 16-111.5B third-party programs and Section 8-103 programs due to the Section 16-111.5B requirements referenced above.

Attachment C: IPA Workshop Subcommittee Schedule

Date	Agenda	Next Steps
<p><u>Workshop #1</u></p> <p>Tuesday, 1/12 10:30 am – 4:30 pm</p>	<ul style="list-style-type: none"> • Overview of Workshop (Subcommittee) and Plan overview (SAG Facilitation). • Overview of ICC directives, issues to resolve, and related questions (SAG Facilitation). • Feedback from stakeholders on characterization of Commission directives and related questions. • Current RFP process for Section 16-111.5B Programs. • For each issue, identify additional documents/data, etc. that should be produced and considered to inform each Commission directive and its resolution. • Discuss proposed resolution or path to develop resolution for each issue. • Discussion of the timeframe surrounding the resolution of each issue—by when is clarity required for each during the upcoming year? • Identify a party to draft proposed resolution for each issue. 	<p>Draft proposed language (for potential use in 2017 IPA Plan, next version of the Policy Manual, Workshop Report, etc.) for each issue that does not require additional data/analysis/documents.</p> <p>For issues that require more information, clearly identify the information need and who is responsible for providing.</p>
<p><u>Workshop #2</u></p> <p>Tuesday, 1/19 10:30 am – 4:30 pm</p>	<ul style="list-style-type: none"> • Discuss each issue. • Discuss additional documents or data provided. • Discuss proposed resolution of issues that required more data. • Discuss any draft resolution language produced after Workshop #1. 	<p>Draft proposed language for issues that did not get addressed in first round due to need for more information.</p> <p>Update resolutions based on group discussion.</p> <p>Comments on 2013-2014 consensus items due by COB on 1/27.</p>
<p><u>Follow-Up Teleconference</u></p> <p>Monday, 2/1 10:00 am – 1:00 pm</p>	<ul style="list-style-type: none"> • Discuss comparison document for 2013-2014 consensus items vs. Policy Manual. • Identify consensus and non-consensus items. 	
<p><u>Workshop #3</u></p> <p>Tuesday, 2/2 10:30 am – 4:30 pm</p>	<ul style="list-style-type: none"> • Discuss open issues. • Identify consensus items and non-consensus items • Discuss whether to seek resolution of non-consensus items. 	<p>Writing Team to review and edit 2013-2014 Consensus Items.</p>

Date	Agenda	Next Steps
<u>Workshop #4</u> Tuesday, 2/23 10:30 am – 12:30 pm	<ul style="list-style-type: none"> Review Writing Team edits to 2013-2014 Consensus Items; discuss open Consensus Item issues. 	
<u>Workshop #5</u> Monday, 2/16 1:00 – 4:00 pm	<ul style="list-style-type: none"> Discuss responses to Question 4 (administrative costs) and Question 5 (contract scrutiny). 	<p>SAG Facilitation to draft IPA Workshop Report and Comparison Exhibit, for review and comment.</p> <p>Writing Team to review 2013-2014 Consensus Items and propose consolidated edits for Policy Manual Version 2.0, for review and comment.</p>
<u>Workshop #6</u> Wednesday, 4/13 (11:30 am – 4:30 pm)	<ul style="list-style-type: none"> Discuss open issues. Review questions / comments on draft IPA Workshop Subcommittee Report. 	
<u>Workshop #7</u> Tuesday, 5/10 (1:00 – 3:00 pm)	<ul style="list-style-type: none"> Review comments on consolidated edits to 2013-2014 Consensus Items for Policy Manual Version 2.0. Review open questions on 2013-2014 Consensus Items. 	
<u>Small Group Call</u> Tuesday, 5/10 (3:15 – 4:45 pm)	<ul style="list-style-type: none"> Discuss open non-consensus items; attempt to reach resolution. 	
<u>Workshop #8</u> Monday, 5/23 (9:00 – 10:30 am)	<ul style="list-style-type: none"> Finish reviewing comments on consolidated edits to 2013-2014 Consensus Items; finish discussing open questions on Consensus Items. 	<p>Writing Team to edit updated draft IPA Workshop Report, for 15 Business Day review and comment.</p>
<u>Workshop #9</u> Wednesday, 7/6 (1:00 – 4:30 pm)	<ul style="list-style-type: none"> Review questions / comments on updated final draft IPA Workshop Subcommittee Report. Final attempt to resolve non-consensus items. 	<p>SAG Facilitation to update draft IPA Workshop Report for final 10 Business Day review and comment.</p>
<u>Workshop #10</u> Wednesday, 7/27 (9:30 – 11:30 am)	<ul style="list-style-type: none"> Discuss final comments on updated draft IPA Workshop Subcommittee Report. 	