

STATE OF ILLINOIS



ILLINOIS COMMERCE COMMISSION

ICC Staff Report

RE: Summary of Section 16-111.5B Energy
Efficiency Workshops Required by the
Commission's Order in Docket No. 12-0544

August 2, 2013

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ICC Staff Report: Summary of Section 16-111.5B EE Workshops

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Disclaimer

The Section 16-111.5B Energy Efficiency (“EE”) Workshops were held pursuant to the Commission’s December 19, 2012 [Final Order](#) in Docket No. 12-0544 (“2013 Procurement Order”). The Commission’s 2013 Procurement Order noted that “[b]ecause this is the first procurement proceeding to consider the Section 16-111.5B energy efficiency programs, and considering the lack of agreement on other requests, suggestions or recommendations -- for which determinations are not required by statute -- the Commission declines to render a decision or require modifications to the Procurement Plan with respect to these matters. However, in light of the fact that several parties have raised or otherwise addressed additional requests, suggestions, or recommendations regarding the Section 16-111.5B energy efficiency programs that warrant further attention, the Commission directs Staff to work with the IPA to conduct a series of workshops – if the IPA is agreeable to doing so -- to determine if there are additional changes or refinements to consider with regard to such requests, suggestions, or recommendations in future procurement proceedings.” 2013 Procurement Order at 271.

This report conveys the consensus positions of those parties participating in the public workshops concerning Section 16-111.5B EE issues. Each consensus statement was taken from the matrix of issues reviewed at the Section 16-111.5B EE Workshops for which no opposition was presented on that statement (i.e., parties took only support or neutral positions on the statement). After the Section 16-111.5B EE Workshops, Staff requested parties to make best efforts to send any corrections to the revised matrix by Wednesday, June 19, 2013, and noted that failure of any party to provide corrections by that date would be interpreted as agreement that the positions specified in the matrix are accurate. Staff notes, however, that parties reserved the right to change, alter, or modify without prejudice their position in respect to any issue contained in their written comments and/or presented during the workshop process.

Acknowledgements

Staff thanks all the workshop participants, including representatives from: the Ameren Illinois Company; the Applied Energy Group; the Citizens Utility Board; the City of Chicago; CNT Energy; Commonwealth Edison Company; the Environmental Law and Policy Center; the Illinois Attorney General’s Office; the Illinois Department of Commerce and Economic Opportunity; the Illinois Power Agency; the Illinois Stakeholder Advisory Group’s facilitator; Lockheed Martin Energy Solutions; the Natural Resources Defense Council; Navigant Consulting; and Nicor Gas Company .

Web Access

This report along with various other materials related to the Section 16-111.5B EE Workshops can be found in electronic form by using the following link to the Commission’s [Energy Efficiency Workshops 16-111.5B](#) website: <http://www.icc.illinois.gov/electricity/EnergyEfficiencyWorkshops161115B.aspx>

Executive Summary

In the Illinois Commerce Commission’s (“Commission” or “ICC”) December 19, 2012 [Final Order](#) in ICC Docket No. 12-0544 (“2013 Procurement Order”), the Commission directed ICC Staff to work with the Illinois Power Agency (“IPA”) to conduct a series of public workshops regarding Section 16-111.5B¹ energy efficiency (“EE”) issues “to determine if there are additional changes or refinements to consider with regard to such requests, suggestions, or recommendations in future procurement proceedings.”²

Three Section 16-111.5B EE Workshops were held at the ICC in Springfield in 2013.³ Initial and Reply Comments were also submitted concerning the [Post-Workshop Section 16-111.5B EE Questions](#). In addition to parties having a better understanding of the Section 16-111.5B EE issues, the outcome of the workshop process includes a number of statements concerning Section 16-111.5B EE issues where parties participating in the Section 16-111.5B EE Workshops reached consensus (i.e., no opposition to the statement).

This report conveys the consensus positions of those parties participating in the public workshops concerning Section 16-111.5B EE issues. Each consensus statement was taken from the matrix of issues reviewed at the Section 16-111.5B EE Workshops for which no opposition was presented on that statement (i.e., parties took only support or neutral positions on the statement). Below are the [Post-Workshop Section 16-111.5B EE Questions](#) covered through written Initial and Reply Comments⁴ and discussed in detail at the second and third Section 16-111.5B EE Workshops. Below each question is a bulleted list of statements where consensus was reached among the workshop participants. The superscript numbers following each statement is a reference to the statement number from the workshop matrix.⁵

¹ 220 ILCS 5/16-111.5B.

² 2013 Procurement Order at 271.

³ Workshop #1, Thursday, April 11, 2013, 9:30 AM – 4:30 PM; ICC, 527 East Capitol Avenue, Springfield, IL 62701; Hearing Room A.

Workshop #2, Monday, June 3, 2013, 10:30 AM – 4:30 PM; ICC, 527 East Capitol Avenue, Springfield, IL 62701; Hearing Room A

Workshop #3, Tuesday, June 4, 2013, 9:00 AM – 4:30 PM; ICC, 527 East Capitol Avenue, Springfield, IL 62701; Hearing Rooms A and B

⁴ Initial and Reply Comments of the parties can be accessed via the Commission’s website: <http://www.icc.illinois.gov/electricity/EnergyEfficiencyWorkshops161115B.aspx>

⁵ ‘Matrix of Parties’ Positions on 16-111.5B Issues - DRAFT 6-4-13 430pm.docx’, ‘Matrix of Parties’ Positions on 16-111.5B Issues - DRAFT 6-14-13 430pm.docx’, and ‘Staff Consensus Matrix, OAG edits[1].docx’.

Consensus Positions on Post-Workshop Section 16-111.5B EE Questions

A. Coordination of Energy Efficiency Programs

1. Is it feasible for the energy efficiency (“EE”) programs and measures procured by the Illinois Power Agency (“IPA”) pursuant to Section 16-111.5B⁶ to include expansions of Section 8-103⁷ EE programs and measures? If yes, please explain how, describe the benefits and costs of doing so, and explain whether expansions of Section 8-103 EE programs and measures should be included in IPA procurements of EE pursuant to Section 16-111.5B.
 - 1.1. Should the Section 16-111.5B EE programs be limited to new or different EE programs than those included in a utility’s Section 8-103 EE portfolio? What are the benefits and costs of such an approach?
 - **It is feasible to include EE program expansions in IPA procurements.**⁴
 - **The utilities should include cost-effective expansions of the Section 8-103 EE programs in the annual EE assessment they submit to the IPA, unless Section 8-103 EE programs are already expected to achieve the maximum achievable cost-effective savings.**⁶
 - **Due to timing problems, it may not be feasible to include expansion of Section 8-103 EE programs in IPA procurements during years in which there are no Section 8-103 EE programs that have been approved by the Commission.**⁵
 - **To align the filing timelines across Sections 8-103 and 16-111.5B to facilitate including EE program expansions in the EE assessments the utilities submit to the IPA, the utilities and DCEO could file their next Section 8-103 EE plans with the Commission by July 1, 2016. (Need gas utility support)**⁷
 - **An “expansion” of a Section 8-103 EE program per Section 16-111.5B is not strictly defined and could include expanding the EE program in such a way as to facilitate tracking of the Section 16-111.5B portion of the expanded EE program.**³
2. Should expansion of existing Section 8-103 EE programs under Section 16-111.5B also include expansion of DCEO’s Section 8-103 EE programs? If yes, please explain how and describe the benefits and costs of such an approach.
 - **Expansion of DCEO’s Section 8-103 EE programs should be included in the EE assessment that the utilities submit to the IPA per Section 16-111.5B, assuming cooperation from DCEO. (Still questioning contracting relationship with DCEO under Section 16-111.5B EE programs.)**^{15A}
 - **Expansion of DCEO’s Section 8-103 EE programs would need to be shown to be cost-effective per Section 16-111.5B requirements.**¹⁶
 - **DCEO is allowed to offer EE programs under Section 16-111.5B.**¹⁴

⁶ 220 ILCS 5/16-111.5B

⁷ 220 ILCS 5/8-103

- **It would be appropriate for DCEO to bid programs into the utilities' annual EE assessments (RFP). (Still questioning contracting relationship with DCEO under Section 16-111.5B EE programs.)^{15B}**

3. Given the existing EE statutes, should the Commission treat Sections 8-103 (EEPS) and 16-111.5B (IPA) EE portfolios as *separate* portfolios (e.g., separate EE goals, separate budgets, separate sets of standards) or as a *combined* portfolio (e.g., single EE goal, single budget, single set of harmonized standards)? Please explain which approach (i.e., separate or combined EE portfolios) is preferred and provide rationale.
- 3.1. How would the preferred approach (i.e., separate or combined EE portfolios) actually work in practice (in terms of EE evaluation, tracking, reporting, portfolio administration, goals, banking, flexibility, merged or separate budget, and other overlap with Section 8-103)? Please be very specific.
- 3.2. Under what circumstances (if any) could you support the alternative approach (i.e., separate or combined EE portfolios), and how would the alternative approach actually work in practice (in terms of EE evaluation, tracking, reporting, portfolio administration, goals, banking, flexibility, merged or separate budget, and other overlap with Section 8-103)? Please be specific.
- **Sections 8-103 and 16-111.5B EE portfolios can be kept separate.¹⁷**
 - **Sections 8-103 and 16-111.5B EE budgets would be kept separate.²⁸**
 - **EE program expansions would be expanded 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 EE program. (not expanded in exactly the same manner)³⁰**
 - **Savings from the Section 8-103 portion of an expanded EE program would count toward achievement of a utility's Section 8-103 savings goal.²¹**
 - **Savings from the Section 16-111.5B portion of an expanded EE program would count toward achievement of a utility's Section 16-111.5B savings goal, not the Section 8-103 savings goal.²³**
 - **Banking policies would not overlap between Sections 8-103 and 16-111.5B.²⁴**
 - **There is no need for banking under Section 16-111.5B.²⁵**
 - **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.^{32AG}**

B. Procurement of Energy Efficiency Programs

4. How should EE programs be procured by the IPA?

4.1. For example, should the IPA procurement allow for multi-year EE programs? Can the number of years that the utilities propose for IPA EE programs be flexible (1, 2, 3, 4 or 5 years)?

4.2. How should payments be structured?

- **Multi-year EE procurement is allowed in the context of the annual EE procurement plan proceeding.**⁵⁴
- **Utilities should include all bids in their EE assessments submitted to the IPA (similar to Ameren last year).**^{55D}
- **Utilities should include bid reviews in their EE assessments submitted to the IPA (similar to ComEd last year) (would be confidential).**^{55C}
- **Section 16-111.5B does not require the utility to be responsible for determining what vendors should be contracted for what amount of savings.**⁸⁴
- **Utilities should have flexibility to structure Section 16-111.5B EE contracts in a manner which best balances the potentially competing objectives of making the procurement process attractive to as many bidders as possible and providing confidence that the savings which are proposed/bid will actually be delivered.**⁵⁷
- **Parties should work toward agreeing upon a set of principles for Section 16-111.5B EE contract design.**⁵⁸
- **It's appropriate to structure Section 16-111.5B EE contracts as "pay-for-performance".**⁵⁶
- **There are no legal requirements for Section 16-111.5B EE contracts to be structured around a "pay-for performance" structure.**⁵⁹
- **To the extent parties are concerned with EE replacing power purchase needs under Section 16-111.5B, it would be appropriate for the IPA and procurement administrator in consultation with the utilities and/or evaluators to attempt to estimate the amount that the Section 16-111.5B EE 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.**⁴¹

5. How should Section 16-111.5B EE programs be evaluated (*e.g.*, using IL-TRM in effect at time of submission, using IL-TRM in effect at time of implementation, deemed NTG) and what is appropriate forum for review (*e.g.*, docketed proceeding, SAG)?
- 5.1. Do EE programs and measures procured by the IPA pursuant to Section 16-111.5B *require* evaluation, measurement and verification? If yes, please answer the following as well:
- 5.1.1. Should assessments of IPA EE programs be included as part of the work done assessing Section 8-103 EE programs and measures through the Technical Reference Manual (“TRM”)? Should the processes now completed for the evaluation of Section 8-103 EE programs, including the TRM and net-to-gross (“NTG”) ratio development, also be done for Section 16-111.5B EE programs?
- 5.1.2. Should the same NTG ratios and savings values, methodologies and assumptions be applied to both Section 8-103 EE programs and Section 16-111.5B EE programs?
- **In general, the IL-TRM should be used for Section 16-111.5B EE programs.**⁴⁶
 - **There may be special circumstances where deviation from the IL-TRM may be appropriate; the utility/vendor should have the option to make the case for the special circumstance. However, the IL-TRM values must also be provided for comparison purposes.**⁴⁷
 - **Section 16-111.5B portions of the expanded EE programs should operate under the same rules as the third party vendor proposals submitted through the annual assessment (RFP process).**^{34c}
 - **Evaluation of the Section 16-111.5B EE programs should be performed by the Section 8-103 EE program evaluators.**¹¹
 - **Evaluation of Sections 8-103 and 16-111.5B EE programs should be coordinated.**¹²
 - **Evaluation sampling (*e.g.*, NTG) could occur on an expanded EE program-level basis, or could be based on each component of the expanded EE program (the Section 8-103 portion and the Section 16-111.5B portion of the expanded EE program), depending on the specific circumstance.**³⁷
 - **There must be a balance in the evaluation of Section 16-111.5B EE programs between the degree of evaluation and the size of the program, wherein larger programs justify more complete evaluations.**⁴⁰
 - **Expenditures on evaluation should be capped for the Section 16-111.5B EE programs as they are for the Section 8-103 EE programs.**⁶⁹
 - **Section 16-111.5B EE evaluation reports should be provided to the Commission in a public docket, either reconciliation proceeding or savings docket.**^{33B}
 - **Ex-post cost-effectiveness analysis should be performed for the Section 16-111.5B EE programs.**³⁸
 - **Ex-post cost-effectiveness analysis should be performed using actual participation and the best available information (*e.g.*, updated NTG).**^{39B}

6. Is it reasonable to hold utilities (or third party vendors) accountable for annual EE savings goals (EE program-level or portfolio-level goals) established pursuant to Section 16-111.5B?
 - 6.1. How should failure of any party to fulfill its Section 16-111.5B obligations be dealt with in the context of Section 16-111.5B EE goals, budgets, and affected supply requirements⁸?
 - 6.2. What are the consequences, if any, should an ex-post evaluation of an EE program or measure procured by the IPA pursuant to Section 16-111.5B fail to show the expected savings?
 - **Utilities are not subject to penalties for failure to achieve the annual Section 16-111.5B energy savings goal.**⁴³

7. Can utilities and third party vendors adjust (EE program and portfolio) goals or budgets after the IPA order but prior to implementation reflecting changes in values and the market given the over one year time lag between RFP submission and implementation? If yes, please answer the following as well:
 - 7.1. Under what circumstances can the utilities and third party vendors make such adjustments? Please be specific.
 - 7.2. What guidelines or rules should govern how such adjustments are made? Please be specific.
 - 7.3. What is the appropriate forum for review (*e.g.*, docketed proceeding, SAG) and approval (*e.g.*, docketed proceeding) of such adjustments, if any?
 - 7.4. Should previously approved EE programs that undergo goal or budget adjustments after approval be rescreened prior to implementation with revised cost-effectiveness estimates submitted to the IPA and the Commission? What should happen if the revised EE program goal (and budget) results in the EE program screening as cost-ineffective?
 - **Under the pay for performance contract, the ICC could authorize on a program basis, a maximum energy savings achieved and spending cap.**^{100C}
 - **There is prudence accountability in a docketed proceeding but no docketed proceeding for savings goals is required per Section 16-111.5B.**⁶⁶

⁸ Please note that item (5) under subsection (a) of Section 16-111.5B states:
(5) Pursuant to paragraph (4) of subsection (d) of Section 16-111.5 of this Act, the Commission shall also 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.
In the event the Commission approves the procurement of additional energy efficiency, it shall reduce the amount of power to be procured under the procurement plan to reflect the additional energy efficiency and shall direct the utility to undertake the procurement of such energy efficiency, which shall not be subject to the requirements of subsection (e) of Section 16-111.5 of this Act. The utility shall consider input from the Agency and interested stakeholders on the procurement and administration process.
220 ILCS 5/16-111.5B(a)(5).

C. Energy Efficiency Program Management

8. What type and amount of flexibility is allowed or appropriate for EE programs approved in an IPA procurement plan under Section 16-111.5B (for one year, and for multiple years, and flexibility between the Sections 16-111.5B and 8-103 EE portfolios)?
- 8.1. For example, can or should resources be transferred between and among Section 16-111.5B EE programs in order to maximize cost-effective savings?
- 8.2. Can or should resources be transferred between the Section 16-111.5B EE portfolio and the Section 8-103 EE portfolio in order to maximize cost-effective savings?
- **Funds approved pursuant to Section 16-111.5B could not be spent on EE programs that were not approved in the procurement plan docket.**²⁹
 - **The Commission may authorize on a program basis an expected spending level and the spending level cap.**^{100D}

D. Cost-Effectiveness of Energy Efficiency Programs and Measures

9. What criteria of cost-effectiveness is appropriate for EE programs and measures procured by the IPA pursuant to Section 16-111.5B?
- **The Total Resource Cost (“TRC”) test should be calculated at the program or measure level.**¹⁰²
 - **Cost-ineffective programs should be dropped during the procurement plan proceeding.**^{90C}
10. What is the meaning of 220 ILCS 5/16-111.5B(a)(3)(D)-(E) in terms of which statistics or cost-effectiveness tests should be used to comply with each of the two requirements? Please be specific.
- (D) Analysis showing that the new or expanded cost-effective EE programs or measures would lead to a reduction in the overall cost of electric service.
- (E) Analysis of how the cost of procuring additional cost-effective EE measures compares over the life of the measures to the prevailing cost of comparable supply.
- 10.1. How should the additional information required of the utilities in the IPA’s procurement of EE programs and measures under Section 16-111.5B(a)(3)(D)-(E) be used? For example, should this additional information be used to exclude EE programs from IPA consideration?
- **Section 16-111.5B(a)(3)(D) can be interpreted as the Utility Cost Test (“UCT”).**¹⁰⁵
 - **Section 16-111.5B(a)(3)(D) should be calculated for each program.**¹⁰⁷
 - **Section 16-111.5B(a)(3)(E) can be interpreted as the Total Resource Cost (“TRC”) test.**¹¹⁰
 - **The Commission should determine how the additional information provided pursuant to Section 16-111.5B(a)(3)(D)-(E) should be used (i.e., litigate).**¹¹³

ICC Staff Report

RE: Summary of Section 16-111.5B Energy Efficiency Workshops Required by the Commission's Order in Docket No. 12-0544

I. Background

On September 28, 2012, pursuant to the Illinois Power Agency Act, 20 ILCS 3855/1-1, et seq., and the Illinois Public Utilities Act (“Act” or “PUA”), 220 ILCS 5/1-101, et seq., the Illinois Power Agency (“IPA”) filed a petition with the Illinois Commerce Commission (“Commission” or “ICC”) requesting approval of the 220 ILCS 5/16-111.5(d) Procurement Plan (“2013 Procurement Plan”), ICC Docket No. 12-0544. Section 16-111.5B of the PUA outlines the provisions relating to energy efficiency (“EE”) procurement and the specific requirements for the consideration of cost-effective EE in the procurement plan. Section 16-111.5B of the PUA requires the IPA to consider the utilities’ annual assessment of cost-effective EE programs or measures that are incremental to those included in the Commission-approved Section 8-103 EE and demand-response plans that could be included in the procurement plan. Section 16-111.5B(a)(4) directs the IPA to include in the procurement plan beginning in 2012, EE “programs and measures it determines are cost-effective and the associated annual energy savings goal included in the annual solicitation process and assessment submitted pursuant to” Section 16-111.5B(a)(3) of the PUA. The IPA’s filing of the 2013 Procurement Plan represented the first opportunity for the Commission to consider the Section 16-111.5B EE issues. In the Commission’s [Final Order](#) in Docket No. 12-0544, the Commission directed ICC Staff to work with the Illinois Power Agency (“IPA”) to conduct a series of workshops regarding the Section 16-111.5B⁹ EE issues “to determine if there are additional changes or refinements to consider with regard to such requests, suggestions, or recommendations in future procurement proceedings.” [Illinois Power Agency](#), ICC Order Docket No. 12-0544, 271 (Dec. 19, 2012) (“2013 Procurement Order”). While the Commission did not direct Staff to file a Staff Report summarizing the outcome of the Section 16-111.5B EE Workshops, based on the request of the Section 16-111.5B EE Workshop participants, Staff produces this ICC Staff Report summarizing the Section 16-111.5B Energy Efficiency Workshops required by the Commission’s 2013 Procurement Order.

⁹ 220 ILCS 5/16-111.5B.

II. Facilitated Collaborative Process

On February 22, 2013, ICC Staff requested [input](#) from interested parties regarding Section 16-111.5B EE issues that should be considered in the workshop process. Comments were received by March 8, 2013 from [Ameren Illinois Company](#) (“AIC” or “Ameren”), [Applied Energy Group](#) (“AEG”), [Commonwealth Edison Company](#) (“ComEd”), the [IPA](#), and a [joint submission](#) from the Citizens Utility Board (“CUB”), the Environmental Law and Policy Center (“ELPC”), the Natural Resources Defense Council (“NRDC”), and the People of the State of Illinois (“AG”).

The [first Section 16-111.5B EE Workshop](#) was held at the ICC on April 11, 2013 to address Section 16-111.5B EE issues raised by the parties. Based on the collective desire of interested parties attending the April 11, 2013 workshop, a post-workshop comment period was agreed to as an appropriate next step in order to determine where consensus had been reached on various Section 16-111.5B EE issues. As agreed to at the first workshop, ICC Staff distributed a [draft list of Section 16-111.5B EE questions](#) on April 15, 2013, and requested input from interested parties regarding additional Section 16-111.5B EE questions that should be addressed in post-workshop comments. Additional questions were received from [Ameren](#) and [CUB](#) (with concurrence from NRDC and the AG) by April 22, 2013. ICC Staff requested input from interested parties and issued a [notice of comment period](#) regarding [Post-Workshop Section 16-111.5B Energy Efficiency Questions](#) developed by the parties on April 24, 2013. Initial Comments were received from [Ameren](#), [ComEd](#), and the [IPA](#) by May 8, 2013. Initial Comments were received from the [City of Chicago](#), [CUB](#), [ICC Staff](#), [NRDC and the AG](#) by May 15, 2013. Reply Comments were received from [Ameren](#), [CUB](#), [ICC Staff](#), and the [IPA](#) by May 29, 2013.

The second and third (final) Section 16-111.5B EE Workshops, held on June 3, 2013 and June 4, 2013 at the ICC, focused on documenting, reviewing, and clarifying areas of consensus regarding the various Section 16-111.5B EE issues. ICC Staff compiled a draft matrix¹⁰ of Section 16-111.5B EE issues that represented a compilation of ICC Staff’s understanding of the parties’ positions on the issues based on the Initial and Reply Comments of the parties and circulated the draft matrix with the parties. ICC Staff edited the matrix throughout the Section 16-111.5B EE Workshops to ensure accuracy of the parties’ positions on the issues. At the conclusion of the June 4, 2013 Section 16-111.5B EE Workshop, ICC Staff circulated with the parties the revised draft summary matrix¹¹ of the parties’ positions on the Section 16-111.5B EE issues. Parties agreed to review of the revised draft summary matrix after the workshop and further agreed to provide ICC Staff with confirmation/modification of their parties’ positions. Based on consensus at the Section 16-111.5B EE Workshop, ICC Staff agreed to send out a summary of the consensus Section 16-111.5B EE statements grouped by subject matter at a later date. This document contains the summary of the consensus Section 16-111.5B EE statements that was developed in the manner discussed above. The consensus matrix was created by ICC Staff and was modified based on input from the parties. It was

¹⁰ ‘Matrix of Parties’ Positions on 16-111.5B Issues - DRAFT 6-3-13 950am.docx’.

¹¹ ‘Matrix of Parties’ Positions on 16-111.5B Issues - DRAFT 6-4-13 430pm.docx’.

initially based on ICC Staff's understanding of the parties' positions on the issues as contained in the Initial and Reply Comments of the parties, then it was modified based on discussions at the second and third Section 16-111.5B EE Workshops, and finalized based on follow-up confirmation with parties after the workshops.

III. Overview of the Workshops

The Section 16-111.5B EE Workshops were held at the ICC's Springfield Office.¹² The Section 16-111.5B EE Workshops were discussion based. The topics covered at the first workshop were:

- A. Sections 8-103 and 16-111.5B Overlap and Coordination
 - a. Goals
 - b. Evaluation
 - c. Flexibility
 - d. Coordination
- B. Cost-Effectiveness
- C. RFP Process and Timing

Please see the [April 11, 2013 Workshop Agenda](#) for a detailed list of topics and questions.

The topics covered through Initial and Reply Comments regarding the [Post-Workshop Section 16-111.5B EE Questions](#) and the second and third workshops were:

- A. Coordination of Energy Efficiency Programs
- B. Procurement of Energy Efficiency Programs
- C. Energy Efficiency Program Management
- D. Cost-Effectiveness of Energy Efficiency Programs and Measures

The second and third Section 16-111.5B EE Workshops focused on clarifying areas where consensus was reached regarding the aforementioned topics.

¹² Workshop #1, Thursday, April 11, 2013, 9:30 AM – 4:30 PM; ICC, 527 East Capitol Avenue, Springfield, IL 62701; Hearing Room A.

Workshop #2, Monday, June 3, 2013, 10:30 AM – 4:30 PM; ICC, 527 East Capitol Avenue, Springfield, IL 62701; Hearing Room A

Workshop #3, Tuesday, June 4, 2013, 9:00 AM – 4:30 PM; ICC, 527 East Capitol Avenue, Springfield, IL 62701; Hearing Rooms A and B

IV. Consensus Positions on Post-Workshop Section 16-111.5B EE Questions

Below are the [Post-Workshop Section 16-111.5B EE Questions](#) covered through written Initial and Reply Comments¹³ and discussed in detail at the second and third workshops. Below each question is a list of bulleted statements where consensus was reached among the workshop participants. The superscript numbers following each statement is in reference to the statement number from the workshop matrix.¹⁴ Please note that the consensus statements are taken from the matrix of issues reviewed at the workshops for which no opposition was presented.

A. Coordination of Energy Efficiency Programs

1. Is it feasible for the energy efficiency (“EE”) programs and measures procured by the Illinois Power Agency (“IPA”) pursuant to Section 16-111.5B¹⁵ to include expansions of Section 8-103¹⁶ EE programs and measures? If yes, please explain how, describe the benefits and costs of doing so, and explain whether expansions of Section 8-103 EE programs and measures should be included in IPA procurements of EE pursuant to Section 16-111.5B.
 - 1.1. Should the Section 16-111.5B EE programs be limited to new or different EE programs than those included in a utility’s Section 8-103 EE portfolio? What are the benefits and costs of such an approach?
 - **It is feasible to include EE program expansions in IPA procurements.**⁴
 - **The utilities should include cost-effective expansions of the Section 8-103 EE programs in the annual EE assessment they submit to the IPA, unless Section 8-103 EE programs are already expected to achieve the maximum achievable cost-effective savings.**⁶
 - **Due to timing problems, it may not be feasible to include expansion of Section 8-103 EE programs in IPA procurements during years in which there are no Section 8-103 EE programs that have been approved by the Commission.**⁵
 - **To align the filing timelines across Sections 8-103 and 16-111.5B to facilitate including EE program expansions in the EE assessments the utilities submit to the IPA, the utilities and DCEO could file their next Section 8-103 EE plans with the Commission by July 1, 2016. (Need gas utility support)**⁷
 - **An “expansion” of a Section 8-103 EE program per Section 16-111.5B is not strictly defined and could include expanding the EE program in such a way as to facilitate tracking of the Section 16-111.5B portion of the expanded EE program.**³

¹³ Initial and Reply Comments of the parties can be accessed via the Commission’s website: <http://www.icc.illinois.gov/electricity/EnergyEfficiencyWorkshops161115B.aspx>

¹⁴ ‘Matrix of Parties’ Positions on 16-111.5B Issues - DRAFT 6-4-13 430pm.docx’, ‘Matrix of Parties’ Positions on 16-111.5B Issues - DRAFT 6-14-13 430pm.docx’, and ‘Staff Consensus Matrix, OAG edits[1].docx’.

¹⁵ 220 ILCS 5/16-111.5B

¹⁶ 220 ILCS 5/8-103

2. Should expansion of existing Section 8-103 EE programs under Section 16-111.5B also include expansion of DCEO's Section 8-103 EE programs? If yes, please explain how and describe the benefits and costs of such an approach.
 - **Expansion of DCEO's Section 8-103 EE programs should be included in the EE assessment that the utilities submit to the IPA per Section 16-111.5B, assuming cooperation from DCEO. (Still questioning contracting relationship with DCEO under Section 16-111.5B EE programs.)^{15A}**
 - **Expansion of DCEO's Section 8-103 EE programs would need to be shown to be cost-effective per Section 16-111.5B requirements.¹⁶**
 - **DCEO is allowed to offer EE programs under Section 16-111.5B.¹⁴**
 - **It would be appropriate for DCEO to bid programs into the utilities' annual EE assessments (RFP). (Still questioning contracting relationship with DCEO under Section 16-111.5B EE programs.)^{15B}**

3. Given the existing EE statutes, should the Commission treat Sections 8-103 (EEPS) and 16-111.5B (IPA) EE portfolios as *separate* portfolios (e.g., separate EE goals, separate budgets, separate sets of standards) or as a *combined* portfolio (e.g., single EE goal, single budget, single set of harmonized standards)? Please explain which approach (i.e., separate or combined EE portfolios) is preferred and provide rationale.
 - 3.1. How would the preferred approach (i.e., separate or combined EE portfolios) actually work in practice (in terms of EE evaluation, tracking, reporting, portfolio administration, goals, banking, flexibility, merged or separate budget, and other overlap with Section 8-103)? Please be very specific.
 - 3.2. Under what circumstances (if any) could you support the alternative approach (i.e., separate or combined EE portfolios), and how would the alternative approach actually work in practice (in terms of EE evaluation, tracking, reporting, portfolio administration, goals, banking, flexibility, merged or separate budget, and other overlap with Section 8-103)? Please be specific.
 - **Sections 8-103 and 16-111.5B EE portfolios can be kept separate.¹⁷**
 - **Sections 8-103 and 16-111.5B EE budgets would be kept separate.²⁸**
 - **EE program expansions would be expanded 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 EE program. (not expanded in exactly the same manner)³⁰**
 - **Savings from the Section 8-103 portion of an expanded EE program would count toward achievement of a utility's Section 8-103 savings goal.²¹**
 - **Savings from the Section 16-111.5B portion of an expanded EE program would count toward achievement of a utility's Section 16-111.5B savings goal, not the Section 8-103 savings goal.²³**
 - **Banking policies would not overlap between Sections 8-103 and 16-111.5B.²⁴**

- **There is no need for banking under Section 16-111.5B.**²⁵
- **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.**^{32AG}

B. Procurement of Energy Efficiency Programs

4. How should EE programs be procured by the IPA?

4.1. For example, should the IPA procurement allow for multi-year EE programs? Can the number of years that the utilities propose for IPA EE programs be flexible (1, 2, 3, 4 or 5 years)?

4.2. How should payments be structured?

- **Multi-year EE procurement is allowed in the context of the annual EE procurement plan proceeding.**⁵⁴
- **Utilities should include all bids in their EE assessments submitted to the IPA (similar to Ameren last year).**^{55D}
- **Utilities should include bid reviews in their EE assessments submitted to the IPA (similar to ComEd last year) (would be confidential).**^{55C}
- **Section 16-111.5B does not require the utility to be responsible for determining what vendors should be contracted for what amount of savings.**⁸⁴
- **Utilities should have flexibility to structure Section 16-111.5B EE contracts in a manner which best balances the potentially competing objectives of making the procurement process attractive to as many bidders as possible and providing confidence that the savings which are proposed/bid will actually be delivered.**⁵⁷
- **Parties should work toward agreeing upon a set of principles for Section 16-111.5B EE contract design.**⁵⁸
- **It's appropriate to structure Section 16-111.5B EE contracts as "pay-for-performance".**⁵⁶
- **There are no legal requirements for Section 16-111.5B EE contracts to be structured around a "pay-for performance" structure.**⁵⁹
- **To the extent parties are concerned with EE replacing power purchase needs under Section 16-111.5B, it would be appropriate for the IPA and procurement administrator in consultation with the utilities and/or evaluators to attempt to estimate the amount that the Section 16-111.5B EE 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.**⁴¹

5. How should Section 16-111.5B EE programs be evaluated (*e.g.*, using IL-TRM in effect at time of submission, using IL-TRM in effect at time of implementation, deemed NTG) and what is appropriate forum for review (*e.g.*, docketed proceeding, SAG)?
 - 5.1. Do EE programs and measures procured by the IPA pursuant to Section 16-111.5B *require* evaluation, measurement and verification? If yes, please answer the following as well:
 - 5.1.1. Should assessments of IPA EE programs be included as part of the work done assessing Section 8-103 EE programs and measures through the Technical Reference Manual (“TRM”)? Should the processes now completed for the evaluation of Section 8-103 EE programs, including the TRM and net-to-gross (“NTG”) ratio development, also be done for Section 16-111.5B EE programs?
 - 5.1.2. Should the same NTG ratios and savings values, methodologies and assumptions be applied to both Section 8-103 EE programs and Section 16-111.5B EE programs?
 - **In general, the IL-TRM should be used for Section 16-111.5B EE programs.**⁴⁶
 - **There may be special circumstances where deviation from the IL-TRM may be appropriate; the utility/vendor should have the option to make the case for the special circumstance. However, the IL-TRM values must also be provided for comparison purposes.**⁴⁷
 - **Section 16-111.5B portions of the expanded EE programs should operate under the same rules as the third party vendor proposals submitted through the annual assessment (RFP process).**^{34c}
 - **Evaluation of the Section 16-111.5B EE programs should be performed by the Section 8-103 EE program evaluators.**¹¹
 - **Evaluation of Sections 8-103 and 16-111.5B EE programs should be coordinated.**¹²
 - **Evaluation sampling (*e.g.*, NTG) could occur on an expanded EE program-level basis, or could be based on each component of the expanded EE program (the Section 8-103 portion and the Section 16-111.5B portion of the expanded EE program), depending on the specific circumstance.**³⁷
 - **There must be a balance in the evaluation of Section 16-111.5B EE programs between the degree of evaluation and the size of the program, wherein larger programs justify more complete evaluations.**⁴⁰
 - **Expenditures on evaluation should be capped for the Section 16-111.5B EE programs as they are for the Section 8-103 EE programs.**⁶⁹
 - **Section 16-111.5B EE evaluation reports should be provided to the Commission in a public docket, either reconciliation proceeding or savings docket.**^{33B}
 - **Ex-post cost-effectiveness analysis should be performed for the Section 16-111.5B EE programs.**³⁸
 - **Ex-post cost-effectiveness analysis should be performed using actual participation and the best available information (*e.g.*, updated NTG).**^{39B}

6. Is it reasonable to hold utilities (or third party vendors) accountable for annual EE savings goals (EE program-level or portfolio-level goals) established pursuant to Section 16-111.5B?
 - 6.1. How should failure of any party to fulfill its Section 16-111.5B obligations be dealt with in the context of Section 16-111.5B EE goals, budgets, and affected supply requirements¹⁷?
 - 6.2. What are the consequences, if any, should an ex-post evaluation of an EE program or measure procured by the IPA pursuant to Section 16-111.5B fail to show the expected savings?
 - **Utilities are not subject to penalties for failure to achieve the annual Section 16-111.5B energy savings goal.**⁴³
7. Can utilities and third party vendors adjust (EE program and portfolio) goals or budgets after the IPA order but prior to implementation reflecting changes in values and the market given the over one year time lag between RFP submission and implementation? If yes, please answer the following as well:
 - 7.1. Under what circumstances can the utilities and third party vendors make such adjustments? Please be specific.
 - 7.2. What guidelines or rules should govern how such adjustments are made? Please be specific.
 - 7.3. What is the appropriate forum for review (*e.g.*, docketed proceeding, SAG) and approval (*e.g.*, docketed proceeding) of such adjustments, if any?
 - 7.4. Should previously approved EE programs that undergo goal or budget adjustments after approval be rescreened prior to implementation with revised cost-effectiveness estimates submitted to the IPA and the Commission? What should happen if the revised EE program goal (and budget) results in the EE program screening as cost-ineffective?
 - **Under the pay for performance contract, the ICC could authorize on a program basis, a maximum energy savings achieved and spending cap.**^{100C}
 - **There is prudence accountability in a docketed proceeding but no docketed proceeding for savings goals is required per Section 16-111.5B.**⁶⁶

¹⁷ Please note that item (5) under subsection (a) of Section 16-111.5B states:

(5) Pursuant to paragraph (4) of subsection (d) of Section 16-111.5 of this Act, the Commission shall also 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.

In the event the Commission approves the procurement of additional energy efficiency, it shall reduce the amount of power to be procured under the procurement plan to reflect the additional energy efficiency and shall direct the utility to undertake the procurement of such energy efficiency, which shall not be subject to the requirements of subsection (e) of Section 16-111.5 of this Act. The utility shall consider input from the Agency and interested stakeholders on the procurement and administration process.

220 ILCS 5/16-111.5B(a)(5).

C. Energy Efficiency Program Management

8. What type and amount of flexibility is allowed or appropriate for EE programs approved in an IPA procurement plan under Section 16-111.5B (for one year, and for multiple years, and flexibility between the Sections 16-111.5B and 8-103 EE portfolios)?
- 8.1. For example, can or should resources be transferred between and among Section 16-111.5B EE programs in order to maximize cost-effective savings?
- 8.2. Can or should resources be transferred between the Section 16-111.5B EE portfolio and the Section 8-103 EE portfolio in order to maximize cost-effective savings?
- **Funds approved pursuant to Section 16-111.5B could not be spent on EE programs that were not approved in the procurement plan docket.**²⁹
 - **The Commission may authorize on a program basis an expected spending level and the spending level cap.**^{100D}

D. Cost-Effectiveness of Energy Efficiency Programs and Measures

9. What criteria of cost-effectiveness is appropriate for EE programs and measures procured by the IPA pursuant to Section 16-111.5B?
- **The Total Resource Cost (“TRC”) test should be calculated at the program or measure level.**¹⁰²
 - **Cost-ineffective programs should be dropped during the procurement plan proceeding.**^{90C}
10. What is the meaning of 220 ILCS 5/16-111.5B(a)(3)(D)-(E) in terms of which statistics or cost-effectiveness tests should be used to comply with each of the two requirements? Please be specific.
- (D) Analysis showing that the new or expanded cost-effective EE programs or measures would lead to a reduction in the overall cost of electric service.
- (E) Analysis of how the cost of procuring additional cost-effective EE measures compares over the life of the measures to the prevailing cost of comparable supply.
- 10.1. How should the additional information required of the utilities in the IPA’s procurement of EE programs and measures under Section 16-111.5B(a)(3)(D)-(E) be used? For example, should this additional information be used to exclude EE programs from IPA consideration?
- **Section 16-111.5B(a)(3)(D) can be interpreted as the Utility Cost Test (“UCT”).**¹⁰⁵
 - **Section 16-111.5B(a)(3)(D) should be calculated for each program.**¹⁰⁷
 - **Section 16-111.5B(a)(3)(E) can be interpreted as the Total Resource Cost (“TRC”) test.**¹¹⁰
 - **The Commission should determine how the additional information provided pursuant to Section 16-111.5B(a)(3)(D)-(E) should be used (i.e., litigate).**¹¹³