

# Illinois' RPS Off To Slow Start In 2005

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In July 2005, amid many handshakes and press releases, the Illinois Commerce Commission (ICC) proudly announced that it had adopted a renewable portfolio standard (RPS) for Illinois. This was the culmination of a series of commission-sponsored workshops held during the spring and summer of 2005 to consider Gov. Rod Blagojevich's proposed Illinois Sustainable Energy Plan, which urged adoption of a PRS. The commission accepted its staff report and adopted the plan with modifications based on that report.

The RPS targets set by the ICC become effective for 2007. In that year, Illinois public utilities and competitive electricity suppliers (load serving entities, or LSEs) are supposed to obtain 2% of their retail load from eligible renewable energy resources. Eligible renewable energy resources include, among other things, wind, solar, photovoltaic, organic waste biomass and landfill gas.

The RPS target increases by 1% per year for the next six years, until a target of 8% is reached in 2013. The RPS requires that 75% of the renewable energy used to meet the RPS is to be derived from wind power. The targets are also subject to a rate impact test under which the maximum percentage rate increase that the ICC could accept in

order to meet the RPS is capped at 0.5% in any one year and 2% cumulatively. The rate impact test would apply only to renewable energy purchases by regulated public utilities, and not to competitive electricity suppliers.

## **Compliance voluntary**

Before counting Illinois among the states with an RPS, it should be noted that compliance is entirely voluntary. LSEs incur no penalty for failure to meet the ICC's renewable energy targets.

Illinois' voluntary RPS has already begun a rapid descent into oblivion. Following its RPS resolution, the ICC notified 26 LSEs that they should file implementation plans within 30 days. Only five responded. None of these responses contains a commitment to purchase renewable energy in amounts that would meet the Illinois RPS targets. Most importantly, though, Commonwealth Edison Company (ComEd), the utility that serves the northern third of Illinois, and Ameren, the utility that serves most of the rest of the state have yet to respond.

The weakness of Illinois' voluntary RPS was glaringly revealed in September 2005, when ComEd withdrew its participation in response to developments in a case before the commission. To arrange

for procurement of its electricity supply starting in 2007, which is the first full year of Illinois' scheduled transition to a fully competitive retail electricity market, ComEd filed with the ICC proposed tariffs to implement a "reverse auction" procurement method.

On Aug. 31, Blagojevich sent a letter to the commission stating that approval of ComEd's reverse auction would be "either a serious neglect of duty or gross incompetence by the ICC." ComEd responded by notifying the ICC that it would not file any RPS implementation plan until issues in its separate auction procurement case were resolved. The lesson for wind energy developers considering Illinois projects is clear: A major utility can hold the bulk of Illinois' voluntary RPS program for ransom until other cases or issues are resolved in its favor.

## **Cost recovery**

Even if the wholesale procurement issues are resolved, ComEd will not enter into renewable energy purchase contracts without adequate assurance of cost recovery through rates. Although the ICC staff report's references to annual

and cumulative caps on utility rate increases provide some comfort to renewable energy developers on this issue, the staff did not propose elimination of prudence or used and useful determinations of renewable energy expenditures and investments by public utilities.

The lack of seriousness of the Illinois RPS is further reflected in the questions left unanswered by the commission's resolution. Among these is whether renewable energy certificates (RECs) generated outside of Illinois may be used for purposes of meeting RPS targets.

Commission staff did not recommend limiting RECs to Illinois. Rather, the issue was placed before the ICC, stating that if the primary benefits of the RPS were Illinois jobs, tax revenues and wind lease payments, then there may be a greater reason to limit eligible RECs to those produced from in-state renewable resources. The ICC did not consider this issue in its brief resolution.

LSEs participating in the Illinois RPS can obtain some guidance from

the governor's original proposal, which recommended that "renewable energy procured to meet the Renewable Portfolio Standard be generated in Illinois or in a directly adjacent serious or severe [EPA] National Ambient Air Quality Standard non-attainment area."

Depending on the level of LSE participation, Illinois may not have sufficient in-state renewable energy resources to meet RPS targets during the early stages of implementation. The commission needs to provide a clear answer on REC eligibility for the benefit of LSEs participating in the RPS program.

### **Conclusion**

Gov. Blagojevich's Sustainable Energy Plan recommended a mandatory, not a voluntary, RPS. The targeted increases in renewable energy were expressed as requirements, and the governor's plan recommended a penalty of \$25 per MWh for non-compliance with the RPS targets. The plan's recommendation that 75% of the RPS requirement be met through

wind generation also recognized Illinois' abundant wind resources and the efficiency and cost-effectiveness of wind generation.

The ICC's resolution implementing a voluntary RPS falls far short of the recommendations in the plan. The commission's treatment of the staff report leaves important questions unanswered and thus creates uncertainty. ComEd's recent withdrawal from the RPS implementation process in response to adverse developments in another case shows how a large and influential utility can use – and misuse – a voluntary RPS.

Further, LSEs have largely ignored the commission's call for RPS implementation plans. The commission's adoption of a voluntary RPS for Illinois will do little, or nothing, to promote the development of renewable energy, and particularly wind energy, in the state. As a result, Illinois has missed an opportunity to obtain the environmental and economic benefits that robust wind energy development might have otherwise provided. 