

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission	)	
On its Own Motion	)	No. 13-0034
	)	
Phase 2 of the initial approvals for FutureGen	)	
Industrial Alliance, Inc.	)	

**PROPOSED ISSUES LIST AND SUGGESTED SCHEDULE ON BEHALF OF THE  
ILLINOIS COMPETITIVE ENERGY ASSOCIATION**

Illinois Competitive Energy Association (“ICEA”), pursuant to the Administrative Law Judge’s (“ALJ”) Order dated January 22, 2013, respectfully submits this Proposed Issues List in the above-captioned Docket.

**I.**

**ISSUES LIST**

The ICEA recommends that the Illinois Commerce Commission (“Commission”) address the following issues in this Docket as Phase 2 of the process described in the Commission’s Final Order in ICC Docket No. 12-0544.

**BACKGROUND**

On page 1 of the initiating order for Docket No. 13-0034, the Illinois Commerce Commission (“Commission”) included the following quote from its Final Order in Docket No. 12-0544:

In its Objections, FutureGen describes a two-phase process for obtaining initial approvals. According to FutureGen, Phase 1 would be undertaken by the Commission in the instant proceeding and consist of Commission consideration of approval of the sourcing agreement as to form and the rate formula. As part of Phase 2, FutureGen indicates that it would submit a set of proposed “Preapproved Total Capital Costs” and a proposed rate of return and capital structure (including a debt/equity ratio). The Commission agrees with and adopts this approach, but

notes that since the Commission has already approved FutureGen's return on equity and capital structure, these need not be included as Phase 2 issues.

Because FutureGen's two-phase process is approved, the Commission shall immediately initiate a separate proceeding in order to address, as expeditiously as practicable, the remaining contested issues regarding the proposed sourcing agreement. The issues shall include, but not be limited to: the provisions within Section 1-75(d)(3) of the IPA Act that are mandatory for sourcing agreements that are not associated with the initial clean coal facility; the preapproved total capital costs; and Staff's recommendations for annual audits, reconciliations, and periodic benchmark tests. The Commission directs the parties at the outset of the subsequent proceeding to submit issue lists and appropriate docket timeframes to the Administrative Law Judge for resolution. The Commission notes that issues resolved in Phase 1 shall not be relitigated in Phase 2 of the process.

(Order, Docket No. 12-0544, December 19, 2012, pp. 233-234)

### **QUESTIONS/ISSUES TO ADDRESS IN DOCKET NO. 13-0034**

ICEA recommends that the questions to be addressed in this docket include, but not be limited to, the following:

- Benchmarks:
  - What is the appropriate benchmark?
  - How and when should the benchmark be determined?
  - Establish appropriate periodic timing of benchmark and resulting analysis.
- Annual reconciliation:
  - Determine process for reconciliation.
  - How costs are to be claimed by FutureGen:
    - Should required documentation mirror that of a utility rate case for capital expenditures?
    - Should costs be overall costs, or broken down by different types of costs?
- Audit:
  - Determine process for audit.
  - Discuss transparency and public disclosure of information.
- How costs are impacted by construction and delays:

- Is there a construction timeline, with costs associated with each phase?
- How is the Commission and stakeholders to be assured that construction progresses at key milestones so as to be on track with projected costs?
- To the extent that costs are exceeding projections, such that the statutory cap may be hit, what will be the process?
- How will utilities bill customers for the costs associated with FutureGen?
  - Specify logistics.
  - Assurance that it will be transparent.
  - Any additional line item, etc. on a customer's bill must not interfere with the allocation of space on a utility consolidated bill for ARES charges and messages.

## II.

### SUGGESTED SCHEDULE

The ICEA has no preference and does not submit a suggested schedule or docket timeframe.

Wherefore the ICEA respectfully requests that the ALJ consider the ICEA's Proposed Issues List.

DATED: January 30, 2013

ILLINOIS COMPETITIVE ENERGY ASSOCIATION

By: /s/ Barton J. O'Brien  
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