**Section 1620.826 Communications Related to Power Procurement by the Illinois Power Agency**

a) This Section implements Section 50-39 of the Illinois Procurement Code concerning communications with the Illinois Power Agency relating to power procurement.

b) For purposes of this Section, the identified terms have the following definitions:

1) "Illinois Power Agency" or "IPA" means the agency created by Section 1-15 of the Illinois Power Agency Act [20 ILCS 3855/1-15];

2) "Illinois Power Agency employee" means:

A) any person employed full-time, part-time or pursuant to a personal services contract with IPA and whose employment duties are subject to the direction and control of the IPA Director or staff with regard to the material details of how the work is to be performed;

B) the Director of IPA;

C) or any person associated with IPA as an independent contractor performing services or providing goods pursuant to terms specified by contract with IPA, including employees of any such independent contractor.

3) "Content of any power procurement plan" means the substance of the power procurement plan provided in the Illinois Power Agency Act (IPA Act) [20 ILCS 3855] and Sections 16-111.5 and 16-111.5B of the Public Utilities Act (PUA) [220 ILCS 5/16-111.5 and 16-111.5B].

4) "Manner of conducting a power procurement process" means the method of carrying out and administering the procurement process provided in Section 1-75 of the IPA Act and Section 16-111.5 of the PUA.

5) "Method or structure of contracting with power suppliers" means the system or composition of agreeing with a provider of electricity or related services, including renewable resources, for procurements administered by IPA, whether or not IPA is a party to the contract.

6) "Procurement of a power supply" means the acquisition of electricity or related services, including renewable resources, on behalf of participating utilities or IPA. A procurement of a power supply commences when IPA begins efforts, formal or informal, on the power procurement plan provided in the IPA Act and Section 16-111.5 of the PUA or, for procurements of renewable energy resources, pursuant to Section 1-56 of the IPA Act, and continues through the conclusion of the procurement process provided in Sections 1-75 and 1-56 of the IPA Act and Section 16-111.5 of the PUA, and includes any alternate procedures adopted by the Director pursuant to Section 20-10(i) of the Illinois Procurement Code.

7) "Public forum" includes any meeting that satisfies the notice requirements of Section 2.02 of the Open Meetings Act [5 ILCS 120/2.02], but also includes other public events that are advertised and generally open to the public. A meeting may be a public forum even if a reasonable fee is required, such as educational seminars and conferences.

8) "Participating utility" means a utility that is required to or elects to participate in the IPA procurement process pursuant to Section 16-111.5(a) of the PUA.

c) *Any person communicating orally, in writing, electronically, or otherwise with the Illinois Power Agency to impart, solicit, or transfer any information related to the content of any power procurement plan, the manner of conducting any power procurement process, the procurement of any power supply, or the method or structure of contracting with power suppliers must disclose to the Procurement Policy Board the full nature, content and extent of any such communication.*

d) The disclosure required under this Section shall be filed, in writing, as soon as practicable, but in no event more than 30 days after receipt of the communication. The report shall include *the following information:*

1) *The names of any party to the communication.*

2) *The date on which the communication occurred.*

3) *The time at which the communication occurred.*

4) *The duration of the communication.*

5) *The method (written, oral, etc.) of the communication.*

6) *A summary of the substantive content of the communication.* [30 ILCS 500/50-39(a)]

e) *No trade secrets or other proprietary or confidential information shall be included in any communication reported to the Procurement Policy Board.* [30 ILCS 500/50-39(b)]

f) This Section does not apply to the following communications:

1) *Statements by a person publicly made in a public forum.* However, communications made in a public forum, if made again privately, must be reported.

2) *Statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter.*

3) *Communications regarding the administration and implementation of an existing contract, except communications regarding change orders or the renewal or extension of an existing contract.* [30 ILCS 500/50-39(a)]

4) Statements made by an IPA employee to:

A) the Director of IPA;

B) other employees of IPA;

C) persons associated with IPA as an independent contractor performing services or providing goods pursuant to terms specified by contract with the agency;

D) a commissioner or employee of the Executive Ethics Commission exercising oversight of IPA as part of official responsibilities; or

E) a commissioner or employee of the Illinois Commerce Commission (ICC), when the communications are part of the procurement process provided in Section 1-75 of the IPA Act and Sections 16-111.5 and 16-111.5B of the PUA.

5) *Communications that are privileged, protected or confidential under law*. [30 ILCS 500/50-39(a)]

6) Communications that are required as part of formal processes set out by statute, rule or solicitation, guidelines or procedures, including, but not limited to, the process for determining the content of any power procurement plan, the manner of conducting any power procurement process, the procurement of any power supply, or the method or structure of contracting with power suppliers, provided that the communications are made in accordance with the instructions contained in the statute, rule, solicitation, guidance or procedures.

7) *Unsolicited communications providing general information about products, services or industry best practices, before those products or services become involved in a procurement matter*. [30 ILCS 500/50-39(a)]

8) Communications that are submitted and published on IPA's and ICC's websites in accordance with statute or rules.

g) Notwithstanding any exemption provided in subsection (f), a person must report any communication subject to this Section if that communication attempts to influence through duress, coercion or the direct or indirect offer or promise of anything of value to any person or entity for any benefit or preference in the power procurement process.

h) Notwithstanding any exemption provided in subsection (f), a person must report any communication subject to this Section if the person reasonably believes the communication was made for any improper purpose, including, but not limited to, providing an improper benefit, monetary or non-monetary, to any person or entity.

i) This Section does not apply to communications concerning the hiring of procurement administrators or procurement planning consultants pursuant to Section 1-75 of the IPA Act.

(Source: Added at 37 Ill. Reg. 19561, effective November 22, 2013)