
COMMENTS OF BOMA CHICAGO

TO: ILLINOIS COMMERCE COMMISSION
FROM: BUILDING OWNERS AND MANAGERS ASSOCIATION OF CHICAGO
SUBJECT: TENASKA FACILITY COST REPORT
DATE: APRIL 16, 2010

Executive Summary

The Building Owners and Managers Association of Chicago (“BOMA/Chicago”) is pleased that the Illinois Commerce Commission (“ICC”) has provided the ability of interested parties to provide comments addressing the Tenaska Facility Cost Report (“Tenaska Report”). BOMA/Chicago is very supportive of innovative, market-based technologies that create jobs, provide for a cleaner environment, and lower the costs of doing business in the State of Illinois. However, the Tenaska Report demonstrates substantially negative economic consequences to Illinois consumers, and it only begins to foretell the costs to be borne from the implementation of this particular technology at the expense of sound energy policy. Stated simply, the enormous costs imposed on Illinois ratepayers do not justify the construction of this facility as additional generating capacity in Illinois. BOMA/Chicago estimates its members alone will pay what amount to a “tax” of over \$10 million annually and hundreds of millions of dollars over 30 years in the form of unnecessary surcharges on top of what they would pay for power and energy actually delivered and consumed. The Tenaska Report does not present a convincing case or provide appropriate justification for this extraordinarily costly venture. Accordingly, BOMA/Chicago supports the Stop Tenaska’s Overpriced Power Coalition (“STOP”) comments submitted separately and provides these supplemental comments for consideration.

Background of BOMA/Chicago

BOMA/Chicago’s members represent over 260 office buildings in Chicago and over 150 companies that provide services to the commercial real estate industry. Member buildings make up more than 80 percent of downtown Chicago’s rentable building area and play a vital role in ensuring the economic viability of the region by housing more than 250,000 jobs and nearly 8,000 local, national and international companies. Member buildings also support local schools and public services through more than \$650 million in annual property taxes.

From an energy policy perspective, BOMA/Chicago has assisted in the promotion and the development of an effectively competitive electricity market that operates efficiently and is equitable to all consumers.¹ From the advent of electric retail competition and throughout the mandatory transition period in Illinois, member buildings purchased power in the deregulated energy marketplace, reimbursed the incumbent electric utility through a transition charge,² and assisted in market development from a large consumer perspective. Today, virtually all of BOMA/Chicago members purchase electricity from competitive retail electric suppliers and are leaders in implementing sustainability measures and energy efficiency programs along with other BOMA chapters locally, regionally and nationally. BOMA/Chicago estimates that its member buildings account for 5 percent of Commonwealth Edison Company's peak load.

Impact of Proposed Project on the Competitive Market

As demonstrated in the Tenaska Report, forecasting future world states is as much an art as it is a science. Locking in thirty-year cost increases to consumers, in the form of sourcing contracts, does not provide an adequate cost-benefit analysis for this state to require its consumers to guarantee the costs of this new technology, particularly in the case of escalating, non-capped price increases that may become inevitable in future years. If the Tenaska facility is ultimately approved, the decision would contradict this State's edict of promoting the development of an equitable, efficient and effective competitive electricity market in Illinois as codified in Section 16-101A(d) of the Illinois Public Utilities Act ("PUA").³

On January 2, 2007, many non-residential electric customers, including all BOMA/Chicago member buildings, were *required* to take competitive retail electric service pursuant to PUA Section 16-111.⁴ Ostensibly, by requiring all Illinois consumers to fund the costs of the Tenaska facility, Illinois effectively ushers in a return to a regulated environment, but without the safeguards in place to determine what costs are just and reasonable, and what services are deemed competitive.⁵ Mandating cost recovery for the Tenaska facility effectively establishes monopoly power to an unregulated entity without the legal standards attendant to protect consumers. The State of Illinois has an interest in providing consumer safeguards, and mandating cost of service from a new market entrant circumvents regulatory maxims that require

¹ *See* 220 ILL. COMP. STAT. 16-101A(d).

² 220 ILL. COMP. STAT. 16-111.

³ "A competitive wholesale and retail market must benefit all Illinois citizens. The Illinois Commerce Commission should act to promote the development of an effectively competitive electricity market that operates efficiently and is equitable to all consumers. Consumer protections must be in place to ensure that all customers continue to receive safe, reliable, affordable, and environmentally safe electric service." 220 ILL. COMP. STAT. 16-101A(d).

⁴ *Id.*

⁵ *See* 220 ILL. COMP. STAT. 5/16-111.5(l).

investments be deemed just and reasonable,⁶ and that costs borne by ratepayers be subject to a “used-and-useful” standard, and prudently incurred.⁷

The Tenaska Report, taken alone and at face value, does not satisfy the principles of public utility regulation and retail electric deregulation set forth by the State Legislature. When viewed in tandem with Comments provided by the STOP Coalition, the Tenaska Report’s only certain outcome is severe cost increase to consumers—particularly to non-eligible electric customers like BOMA/Chicago member buildings.

Economic Impact on BOMA/Chicago Member Buildings

A simple metric of expected cost increases to BOMA/Chicago buildings in the aggregate over the next 30 years is provided below. Under all scenarios, the annual cost increases are substantial, ranging between \$10 and \$17 million. Extrapolating out 30 years, BOMA/Chicago buildings will incur nearly half a billion dollars in extra added expense to subsidize the proposed Tenaska facility. Even more troubling are the potential or likely escalating cost increases above and beyond the initial forecasts without protection of caps afforded to eligible retail customers. A growth rate for BOMA/Chicago building load was not factored in due to the uncertainty regarding escalating operating costs having a negative effect on business development in downtown Chicago.

Using an estimate of 1,000 MW for aggregate peak electric demand, and an average load factor of 35%, BOMA/Chicago member buildings currently consume 3,066,000 MWh annually.⁸ Using the cost per MWh supplied in the Pace study of \$114.92,⁹ BOMA/Chicago members currently pay \$352,344,720 annually for electricity. According to the Comments of the STOP Coalition, non-residential retail customers will likely experience rate increases attributable to Tenaska between 3 percent and 4.75 percent over 30 years of the project.¹⁰

BOMA/Chicago Cost Increase

	Annual Cost	Annual Increase
Current Cost	\$352,344,720.00	N/A
3% Increase	\$362,915,061.00	\$10,570,341.60
4.75% Increase	\$369,081,094.20	\$16,736,374.20

⁶ 220 ILL. COMP. STAT. 5/16-111.5(l)

⁷ 220 ILL. COMP. STAT. 5/9-211; *see also* *Schafer v. Exelon Corp.*, 619 F. Supp. 2d 507 (N.D. Ill. 2007) (holding that costs of procuring electric supply shall be prudently incurred).

⁸ (1,000 MW) (0.35) (24 hours) (365 days)

⁹ *See* Pace Study, Reference Case spreadsheet screen shot, p. 63.

¹⁰ *See* Comments of the STOP Coalition, p. 29.

BOMA/Chicago Cost Increase (Over 30-Years)

	30-Year Cost	30-Year Increase
Current Cost	\$10,570,341,600.00	N/A
3% Increase	\$10,887,451,848.00	\$317,110,248.00
4.75 Increase	\$11,072,432,826.00	\$502,091,226.00

Accordingly, our analysis shows that approval of the Tenaska Project will result in BOMA/Chicago member buildings paying between \$317,110,248 to \$502,091,226 extra for electric energy to subsidize the project over 30 years.

Conclusion

The Tenaska Report is not convincing in building a business case for project approval. Discounting the revenue streams to subsidize development of the project at Commonwealth Edison Company's cost of capital would mean 260 BOMA/Chicago building members would collectively pay a present value of between \$112 million to \$180 million dollars today, or between \$10 million to \$17 million dollars annually for 30 years. The Tenaska Facility Cost Report does not justify the enormity of these expenses to a subset of consumers, let alone similar cost increases to every single ratepayer in Illinois.