Northern Illinois Municipal Power Agency
Open Meetings Act Compliance Policy

I. Purpose

The Northern Illinois Municipal Power Agency ("NIMPA" or "Agency") is committed to conducting its business in compliance with the Illinois Open Meetings Act ("OMA")[1], including the closed-session exception applicable to municipal power agencies set forth in 5 ILCS 120/2(c)(23) of the OMA. This Policy establishes procedures for determining when Agency business may be discussed in closed session under Section 2(c)(23) and for ensuring that matters requiring public discussion are conducted in open session.

II. General Policy

NIMPA shall construe all exemptions from the Open Meetings Act narrowly and shall conduct discussions in closed session only when the subject matter falls squarely within one of the categories authorized by any of exceptions provided under Section 2(c), including the revised Section 2(c)(23). Whenever there is uncertainty as to whether a topic may properly be discussed in closed session, the presumption shall be in favor of discussion in open session unless legal counsel advises otherwise.

III. Matters Eligible for Closed Session Discussion under Section 2(c)(23)

The Board may convene in closed session pursuant to Section 2(c)(23) when the discussion directly concerns one or more of the following categories:

A. Proprietary Market Information and Trade Secrets

The Board may discuss in closed session:

1. Trade secrets;
2. Commercial or financial information furnished by a third party under a claim of confidentiality;
3. Proprietary information received from consultants, utilities, developers, marketers, generators, counterparties, or transmission providers; and
4. Commercially sensitive information contained in offers to buy or sell energy, capacity, ancillary services, transmission rights, environmental attributes, or similar products in competitive markets operated by a Regional Transmission Organization.

The discussion must relate directly to the proprietary information itself and not merely tangentially involve such information.

A non-exhaustive list of the types of matters that may qualify for discussion under this subsection include:

- Agency auction bidding strategy;
- Capacity auction participation strategy;
- Resource auction offers and bid prices;
- Confidential market forecasts received from consultants;
- Carbon capture negotiations involving proprietary financial or technical information supplied by a developer;
- Confidential transmission or interconnection proposals;
- Non-public pricing information received from counterparties.

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[1] 5 ILCS 120/ (5 Illinois Compiled Statutes 120/1 et seq.)

B. Critical Energy Infrastructure Information concerning PSGC

The Board shall avoid public disclosure of information pertaining to the Prairie State Generating Campus ("PSGC") whose release could compromise the safety, reliability, or security of energy infrastructure.

A non-exhaustive list of the types of matters that may qualify for discussion in closed session under this subsection includes:

- Physical security of generating facilities, substations, transmission facilities, communications systems, or control systems;
- Cybersecurity plans, vulnerabilities, testing results, or incident response measures;
- Information designated as Critical Energy/Electric Infrastructure Information ("CEII") under federal law or regulation.

C. Power Supply and Commodity Transactions

The Board may discuss in closed session:

- Ongoing contract negotiations for the purchase, sale, or delivery of electricity;
- Ongoing contract negotiations for the purchase, sale, or delivery of natural gas;
- Requests for proposals involving wholesale power supply or natural gas supply

A non-exhaustive list of the types of matters that may qualify for discussion in closed session under this subsection includes: ongoing negotiations concerning energy, capacity, ancillary services, transmission rights, environmental attributes, renewable energy credits, emissions allowances, or similar capacity and energy-related commodities.

Whenever the Board discusses a contract in whole or in part in closed session pursuant to this subsection, the Agency shall conduct at least one public meeting regarding the contract before taking final action to approve the contract. For purposes of this requirement:

- The public meeting agenda shall identify the contract with reasonable specificity;
- The Board shall publicly disclose the material terms necessary for informed public consideration, subject to protection of proprietary information authorized by law;
- Final approval shall occur only after the required public discussion has occurred.

IV. Matters That Must Be Discussed in Open Session

Absent an independent statutory exemption, the following matters shall generally be discussed in open session:

1. Matters pertaining to the Power Sales Agreements between NIMPA and its member municipalities, including amendments thereto;
2. General agency governance matters;
3. Matters pertaining to the operations of PSGC, including ownership, operating and maintenance issues, environmental, or property matters that do not directly involve ongoing power or gas contract negotiations;
4. Real estate transactions involving PSGC merely because they may affect future power costs under the Power Sales Agreements;
5. Final contract terms once negotiations have concluded and public discussion is required under Section 2(c)(23)(iii).

The Board shall not rely on the Section 2(c)(23) exception solely because a matter has an impact on power costs or Agency finances.

V. Agenda and Notice Practices

To promote transparency and demonstrate compliance with the OMA, Agency agendas should specifically identify when a closed session is anticipated under the applicable Section 2(c) exception.

Whenever Section 2(c)(23) is invoked, the motion to enter closed session shall identify the applicable subsection with reasonable specificity. The Agency is not required to disclose confidential market details in the notice but should provide sufficient description to identify the statutory basis for the closed session.

VI. Consultation with Counsel

The Chair, Agency counsel, and the Board Secretary shall review proposed executive-session topics before each meeting to determine:

1. Whether a valid statutory exemption exists;
2. If the topic is intended to be discussed under Section 2(c)(23), which subsection applies; and
3. Whether a public meeting regarding the matter will be required before final action.