

**COMMENTS OF THE RENEWABLES SUPPLIERS
ON THE ILLINOIS POWER AGENCY'S
DRAFT LONG-TERM RENEWABLE RESOURCES PROCUREMENT PLAN**

I. INTRODUCTION

These comments on the Illinois Power Agency's ("IPA") draft Long-Term Renewable Resources Procurement Plan ("Draft Plan") are submitted by the following companies (collectively, the "Renewables Suppliers"):

- Avangrid Renewables LLC
- Invenergy LLC
- EDP Renewables North America LLC
- NextEra Energy Resources, LLC

The Renewables Suppliers acknowledge the IPA's substantial efforts in developing the Draft Plan, particularly in light of the need to operationalize the many new or revised requirements introduced by Public Law 96-0906, the Future Energy Jobs Act ("FEJA"). The Renewables Suppliers have comments on the Draft Plan in the following five areas:

- The Long-Term Renewable Resources Procurement Plan ("LTRR Plan") should present a longer-term perspective than just the upcoming two years on how the IPA plans to meet the Renewable Portfolio Standard ("RPS") goals over the planning horizon of delivery year ("DY") 2018 through DY 2030. In particular, the LTRR Plan should include additional long-term utility-scale wind and photovoltaic forward procurements in the 2018-2019 period. The additional long-term forward procurements will (1) help to fill in the substantial "REC Gap" shown in the Draft Plan for DY 2021 through DY 2037, and (2) help to fulfill one of the key objectives of the FEJA of incenting construction of new utility-scale wind and photovoltaic generation projects.
- The Draft Plan's proposed process for determining whether RECs from a renewable resource generating facility located in a state adjacent to Illinois should be "qualified" to be purchased for RPS compliance purposes, while reflecting a commendable effort to apply the amorphous "public interest criteria" in the FEJA, is arbitrary and presents the strong possibility of "qualifying" less cost-effective adjacent-state facilities while rejecting more cost-effective facilities. The IPA should adopt a simpler process to qualify RECs from adjacent-state facilities, based on whether the adjacent-state facility provides benefits under the public interest criteria (without assuming that an adjacent-state renewable facility would displace a new natural gas-fueled generator in the same adjacent state) and is or will be interconnected with the PJM Interconnection, LLC ("PJM") or Midcontinent Independent System Operator, Inc. ("MISO") transmission system.
- Also with respect to qualifying RECs from adjacent-state facilities, a proposed new adjacent-state facility seeking a determination that it is qualified to supply RECs for RPS compliance purposes should *not* be required to provide a copy of its interconnection agreement, as it is quite likely that at that point in the project development process, the developer will not have completed the interconnection process with PJM or MISO and the local transmission provider to which it will be connecting. It should be sufficient for the adjacent state facility to provide documentation from the regional transmission

organization (“RTO”) that the project is in the RTO’s interconnection queue.

- With respect to the IPA’s request for comment on what the criteria should be for determining if a new wind generating facility is “energized,” and what documentation should be required to demonstrate that the criteria have been met, the Renewables Suppliers believe the IPA’s proposed criteria are appropriate. The required documentation should be a verified statement from an officer of the facility owner that the criteria have been met and stating the date at which the facility became “energized.”
- Finally, the proposed process for developing the standardized REC purchase contracts should include presentation of unresolved comments on the contracts from prospective REC suppliers to the Illinois Commerce Commission (“ICC”) for consideration and resolution.

II. INTEREST OF THE RENEWABLES SUPPLIERS

The Renewables Suppliers are leading developers and operators of utility-scale renewable generating facilities in the United States, including within the Midwestern region that encompasses Illinois. The Renewables Suppliers’ objective is to develop and operate renewable generation (both utility-scale and distributed generation) that provides clean, reliable electricity at competitive prices to consumers, including consumers in Illinois. Project companies of the Renewables Suppliers currently hold long-term contracts with Commonwealth Edison and/or Ameren Illinois Company to supply bundled electricity and renewable energy credits (“RECs”) to meet the purchasing utility’s obligations under the Illinois RPS. These contracts were awarded and entered into through procurement events conducted by the IPA pursuant to Section 1-75(c) of the IPA Act and Section 16-111.5 of the Public Utilities Act (“PUA”). Additionally, a project company of one of the Renewables Suppliers was awarded a long-term REC contract in the initial long-term utility-scale wind REC forward procurement conducted by the IPA in 2017 pursuant to amended Section 1-75(c) of the IPA Act. The Renewables Suppliers anticipate participating, through project companies, in future IPA REC procurement events conducted pursuant to the IPA’s LTRR Plans that are developed under Section 1-75(c) and Section 16-111.5 as amended by FEJA.

III. COMMENTS ON THE DRAFT PLAN

- A. The LTRR Plan Should Present a Longer-Term Plan for Procuring RECs to Meet the RPS Goals Over the 2018-2030 Period and Beyond, and Should Include at Least One Additional Long-Term Utility Scale Wind REC Forward Procurement and One Additional Long-Term Utility-Scale Photovoltaic REC Forward Procurement During the 2018-2019 Period.**

The FEJA made a fundamental change to the renewable resources procurement process in Section 1-75(c) of the IPA Act, by specifying that, going forward, the IPA shall develop a long-term renewable resources plan to meet the RPS goals of Section 1-75(c), with the long-term plan to be reviewed at least every two years. The amended statute specifies that the LTRR Plan is to include cost-effective renewable energy resources to meet the stated RPS percentage goal for each DY from 2018 through (at least) 2026, which is the DY in which the RPS goal reaches its maximum level of 25% of load. Amended Section 1-75(c) also specifies that the LTRR Plan “shall include the procurement of renewable energy credits in amounts equal to at least the following”: (1) by the end of the 2020 DY, at least 2 million RECs for each DY from new wind projects and at least 2 million RECs for each DY from new photovoltaic projects; (2) by the end of the 2025

DY, at least 3 million RECs for each DY from new wind projects and at least 3 million RECs for each DY from new photovoltaic projects; and (3) by the end of the 2030 DY, at least 4 million RECs for each DY from new wind projects and at least 4 million RECs for each DY from new photovoltaic projects. Further, amended PUA Section 16-111.5(b)(5)(ii)(B) specifies that the initial LTRR Plan shall “identify the procurement programs and competitive procurement events consistent with the applicable requirements of the Illinois Power Agency Act *and shall be designed to achieve the goals set forth in subsection (c) of Section 1-75 of that Act*” (emphasis added).

With all due recognition of the IPA’s substantial efforts in developing the Draft Plan, it is not a long-term renewable resources procurement plan as envisioned by amended Section 1-75(c). Rather, the Draft Plan is a two-year procurement plan: It describes only the procurement events that the IPA proposes to conduct in 2018 and 2019.¹ The RECs to be procured through the 2018 and 2019 procurement events described in the Draft Plan (plus the RECs procured under long-term contracts in previous procurement events including the initial utility scale wind, photovoltaic and brownfield solar forward procurements required by the FEJA) will fall far short of meeting the full statutory RPS for DY 2021 through DY 2025 and beyond. The table on page 5 of Appendix B shows a substantial “REC Gap” that must be filled, through additional procurements, to meet the overall RPS goals for DY 2020-2021 through DY 2037-2038.

The Renewables Suppliers appreciate that the IPA may be reluctant to be “locked in” to specific planned REC procurement events many years into the future. However, this is why amended Section 1-75(c) provides for the LTRR Plan to be revised at least every two years (and more frequently, on an expedited basis if needed, if deemed necessary by the IPA). The IPA should present a long-term plan describing how it currently envisions meeting the RPS goals through at least DY 2030-2031 (the last year for which Section 1-75(c) specifies a specific REC target). The IPA can then revise this plan at least every two years based on changing conditions and new information.

Additionally, one of the objectives of the FEJA is the construction of new wind and photovoltaic generation projects in Illinois and adjacent states – this is one of the reasons that P.L. 96-0906 was titled the “Future Energy *Jobs Act*.” The FEJA recognizes the factual reality that in the renewable energy industry, new utility-scale projects are typically developed only on the basis of having long-term contracts in place for a sufficient portion of the proposed facility’s output (RECs, energy, or both) to support financing the project. Without the opportunity for long-term contracts, developers of utility-scale renewable energy facilities will not have the incentive (or, more importantly, the financing capability) to dedicate additional capital and management resources to enable Illinois to meet this objective of the FEJA.

This objective is explicit in the requirement in amended Section 1-75(c), referred to above, for at least 4 million RECs from new wind projects and at least 4 million RECs from new photovoltaic projects by DY 2030-2031. These are minimum targets. Further, Section 1-75(c) requires that at least 75% of RECs procured for RPS purposes shall come from wind and photovoltaic projects. Seventy-five percent of the statewide “REC Gap” for each DY 2020-2021 through 2037-2038, shown on page 5 of Appendix B to the Draft Plan, represents a substantial amount of additional wind and photovoltaic RECs to be procured (*e.g.*, 75% of the 27,152,346 REC Gap for DY 2025-2026 is 20,364,259 RECs). The LTRR Plan should specify that a

¹ These procurements include long-term (15-year) forward procurements, spot (1-year) procurements, and the procurement of RECs in the Adjustable Block, Community Solar, and Illinois Solar for All programs. The long-term forward and spot procurements are summarized on Tables 5-1 and 5-2 in the Draft Plan.

significant portion of the additional required wind and photovoltaic RECs will be purchased through long-term contracts.²

Accordingly, the Renewables Suppliers urge that the following two revisions be made to the Draft Plan: **First**, the Draft Plan should be revised to specify, at least in a general sense, the mix of REC types and contract types and lengths that the IPA foresees using to meet the full RPS REC goals for DY 2020-2021 through DY 2030-2031. DY 2030-2031 is proposed as the end point because it is the last DY with a specific target specified in Section 1-75(c). While projections made for such a long-term future period are a function, in part, of the assumptions used and are subject to future changes in conditions, the IPA will be revising the long-term plan at least every two years to take into account changing conditions and new information.³

Second, the Draft Plan should be revised to include an additional long-term utility-scale wind forward procurement for 1 million RECs per year and an additional long-term utility-scale photovoltaic forward procurement for 1 million RECs per year in 2018 or 2019. Alternatively, the targeted annual REC minimums for the planned long-term utility-scale photovoltaic forward procurement in Spring 2019 (§5.8.1 of the Draft Plan) and either the planned long-term utility-scale wind “first subsequent forward” procurement in Summer 2018 (§5.7.1 of the Draft Plan) or “second subsequent forward” (§5.8.2 of the Draft Plan) could each be increased to at least 2 million RECs per year.⁴ These additional long-term wind and photovoltaic procurements will result in the LTRR Plan providing sufficient procurements of RECs from new utility-scale wind and photovoltaic projects, under long-term contracts, to meet the minimum requirements for DY 2030-2031 of 4 million RECs per year from new wind projects and 4 million RECs per year from new photovoltaic projects. (However, the amounts of RECs to be procured in these additional procurements would be adjusted downward if the IPA projects that the Renewable Resources Budget for any year in the delivery period would not be sufficient to support purchase of the 2 million additional RECs.) These additional long-term procurements will also provide the basis for financing and construction of additional new utility-scale wind and photovoltaic generation projects that would be initiated in the 2018-2019 period, with the attendant employment and economic activity benefits. Further, contracting for RECs from these additional new projects in the 2018-2019 time period will provide a hedge against new wind and photovoltaic projects, and consequently the RECs they produce, being more expensive in subsequent years due to the scheduled phase-out and elimination of the federal production tax credit and investment tax credit for new projects.

² The Renewables Suppliers acknowledge that in order to meet the RPS goals for DY 2017-2018, 2018-2019 and 2019-2020, substantial spot purchases of RECs are needed, as shown on Table 5-2 of the Draft Plan, since sufficient new projects could not be constructed soon enough to supply the amounts of RECs required for these DY.

³ The Renewables Suppliers recognize that amended Section 16-111.5(b)(5)(ii)(B) of the PUA specifies that comments on the Draft Plan should be, “if objecting to all or a portion of the procurement plan, accompanied by specific alternative wording or proposals.” However, the Renewables Suppliers are not in a position to provide a detailed procurement plan to acquire the full amount of RECs needed to meet the statutory RPS goals through DY 2030-2031. Only the IPA is in position to do this.

⁴ These additional long-term procurements should be for RECs from new projects, which presumably will not be operational and delivering RECs until DY 2020-2021 at the earliest. Therefore, these additional long-term procurements will not displace any of the one-year spot procurements proposed in the Draft Plan for 2018 and 2019.

B. The Draft Plan’s Proposed Process for Determining Whether a Renewable Facility in an Adjacent State Is “Qualified” to Supply RECs for Purposes of the Illinois RPS Should Be Revised.

Amended Section 1-75(c)(1)(I) of the IPA Act specifies that the IPA may qualify RECs from facilities located in states adjacent to Illinois if the generator demonstrates and the IPA determines that the operation of such facility or facilities will help promote the State’s interest in the health, safety, and welfare of its residents based on five public interest criteria set forth in that subsection. The subsection further states that the IPA’s LTRR Plan shall describe how each public interest factor shall be considered and weighted for adjacent-state facilities.

The Draft Plan, at pages 60-68, proposes a process for applying the five criteria to determine whether RECs from adjacent-state facilities should be qualified to be counted for RPS compliance purposes. The Renewables Suppliers appreciate the IPA’s efforts at developing the proposed process (which, at least from a computational perspective, is reasonably straightforward) to implement the broad statutory delegation. However, the Renewables Suppliers believe that the proposed process is arbitrary, raises the prospect of disruptive legal challenges, and has the potential to qualify adjacent-state RECs from less cost-effective projects while rejecting adjacent-state RECs from more cost-effective projects, to the detriment of Illinois ratepayers. The process should be simplified, as explained below.

The Renewables Suppliers' overriding concern relating to the geographic eligibility provisions in Section 1-75(c)(1)(I) is that they not be applied in a manner to exclude adjacent-state renewable generating facilities located outside of Illinois that, other than their geographic location, have comparable characteristics and capabilities as in-State facilities, and thereby create a basis for Constitutional or other legal challenges to the statute, the LTRR Plan, or specific procurement events. Such challenges would be extremely disruptive to the process and progress of increasing the amount of renewable energy resources in Illinois’ electricity supply, and could result in invalidation of an otherwise successful REC procurement event. More importantly, application of the geographic eligibility provisions in a manner that excludes RECs from out-of-state renewable generators having comparable characteristics, capabilities, and cost-effectiveness to in-State generators would be contrary to the best interests – using the statutory term, to the “welfare” – of Illinois electricity consumers and Illinois citizens in general.

REC procurement events conducted pursuant to the LTRR Plan will be competitive procurements based on price, with the objective of procuring cost-effective RECs to meet the statutory RPS requirements. Allowing a larger pool of existing and prospective renewable generating facilities to participate in the competitive procurement events will likely produce lower bid prices and, ultimately, lower RPS compliance costs for Illinois electricity consumers, and will enhance the public welfare. In contrast, an unduly stringent application of the geographic eligibility provisions to exclude out-of-state renewable generators from participating in the REC procurement events will artificially restrict the supply of RECs being bid into the IPA’s procurement events and will not produce the best REC prices for Illinois consumers. Indeed, limiting the pool of eligible REC suppliers through exclusion of prospective suppliers located in adjacent states could result in higher bid prices for RECs that cause the statutory price caps of Section 1-75(c)(1)(E) of the IPA Act to be exceeded, thereby resulting in the procurement of fewer RECs than called for by the statute. Such an outcome would be harmful to the “health” and “safety” of Illinois residents as well as to their welfare.

Turning to the specific process proposed in the Draft Plan, the Renewables Suppliers are

concerned that the following components are arbitrary, bearing no stated (or apparent) connection to the underlying purposes of the public interest criteria: (1) the establishment of a 100-point scoring scale, with 20 points assigned to each criterion (thereby assigning equal importance to each criterion); (2) scoring the fifth criterion (contributing to a cleaner and healthier environment for the citizens of Illinois) as the facility's average score for the other four criteria, thereby applying no qualitative assessment to this criterion; and (3) establishing 60 points as the required minimum for "qualification" (why not 55 points, or 51 points?). Renewables Suppliers also question the assumption that generation from an adjacent-state renewables facility will displace generation (and emissions) from a new natural gas fueled-facility that is located in the same adjacent state as the renewable generation facility.

The assumption that generation from an adjacent-state renewable facility will displace generation (and therefore emissions) from a new natural gas fueled-facility that is located in the same adjacent state as the renewable generation facility, is not a good assumption, for at least two reasons. First, it is more reasonable to assume that a renewable generation facility that is connected to the PJM or MISO transmission grid will displace generation (and emissions) from an existing coal-fueled generator. This is due to the low (or zero) marginal costs of wind and solar generation facilities, which enables them to bid into RTO markets at lower prices than can (typically) a fossil-fueled generator. Illinois has many coal-fueled (and natural gas-fueled) generating plants, some of whose output (particularly that of the coal-fueled plants) is undoubtedly being displaced by energy produced by wind and solar facilities located in both Illinois and adjacent states.

Second, the assumption that a renewable generation facility in a state adjacent to Illinois will always displace a new natural gas-fueled generator in that same state is questionable. In general, new generating plants are developed and installed with the objective of serving load and population centers, such as northern Illinois. There are legitimate business reasons for a renewable generation developer to install a new renewable generation facility in a state adjacent to Illinois (even though the area where the facility is sited may be far from any significant load), such as higher average wind speeds, more hours of sunlight, lower land acquisition costs, and lower construction labor costs than would be experienced or can be obtained in Illinois.⁵ Not all of these considerations will apply to the siting of a new natural gas-fueled generator. Further, an important factor in the siting decision for the new natural gas-fueled plant will be access to and cost of natural gas supplies. Northern Illinois benefits from a well-developed natural gas delivery infrastructure which may not be available in adjacent states, particularly in rural areas. In summary, the developer of a new natural gas-fueled generator that is targeting serving load and population centers in Illinois is more likely to site the facility close to the targeted load center(s), rather than in an adjacent state.

The Draft Plan's use of the questionable assumption that an adjacent-state renewable generation facility will displace a new natural gas-fueled generator in that same adjacent state results in the Draft Plan's use of (1) the adjacent-state facility's distance from the population-weighted geographic center of Illinois, which the Draft Plan states is near Morris, Illinois; and (2) wind direction and duration factors, purportedly measuring the extent to which the wind in the relevant adjacent state blows into Illinois. Use of these factors is also problematic. Application of these factors could result in rejection of a more cost-effective adjacent-state facility and qualification of a less cost-effective adjacent-state facility. Consider two hypothetical proposed

⁵ The developer would presumably determine that these advantages to locating the renewable facility in an adjacent state outweigh the additional transmission costs for deliver the plant's electricity output to a load and population center such as northern Illinois.

wind generation facilities, one located in eastern Iowa near the Mississippi River and one located in far western Iowa or northwest Missouri. Due to superior wind resources in western Iowa and northwest Missouri compared to eastern Iowa, the western facility may have a higher capacity factor and produce energy at a lower price per MWh than can the eastern Iowa facility. Yet the eastern Iowa facility could score higher under Criteria 2 and 3 (and, therefore, under Criteria 5 as well) because it is located some 300 miles closer to Morris, Illinois. (The proposed scoring system has no factor to take into account the quality of the wind resources at the adjacent-state facility's location or the capacity factor at which it operates or is expected to operate.) Similarly, a wind generation facility in central Indiana, which is an excellent wind region, could score lower under criterion 1 than a wind generation facility in eastern Iowa or northeastern Missouri (areas with lesser wind resources) due to the lower wind duration/direction factor assigned to Indiana as compared to Iowa and Missouri.

The Renewables Suppliers propose a simpler approach that does not entail the numerical point system, is not grounded in the questionable assumption that a renewable generation facility in an adjacent state is displacing a new natural gas-fueled generator in that same adjacent state, and therefore does not use the distance from Morris, Illinois, nor the wind duration/direction factor as proposed in the Draft Plan. Instead, the factors that should be used are: (1) whether the adjacent-state renewable facility does or will displace the referenced pollutant or emission as compared to generation from a coal-fueled or a natural gas-fueled generator, and (2) whether the adjacent-state generator is or will be interconnected to the PJM or the MISO transmission grid, *i.e.*, to one of the two transmission grids that serves Illinois.

Criterion 1 (minimizing sulfur dioxide (“SO₂”), nitrogen oxide (“NO_x”), particulate matter and other pollution that adversely affects public health in Illinois). If the adjacent-state facility has, or will have, fewer SO₂ and NO_x emissions than a coal-fueled or a natural gas-fueled generator for a comparable amount of MWh generated (using the SO₂ and NO_x emission rates shown in Table 4-1 on page 68 of the Draft Plan), and is or will be connected to the PJM or MISO grid, then the facility provides benefits under Criterion 1.⁶

Criterion 2 (increasing fuel and resource diversity in Illinois). The Renewables Suppliers agree with the Draft Plan (p. 65) that any generating source other than coal or nuclear will increase fuel and resource diversity in Illinois. However, the adjacent-state facility needs to be capable of serving Illinois. Therefore, if the adjacent-state facility is or will be connected to the PJM or MISO grid, then the facility provides benefits under Criterion 2.

Criterion 3 (enhancing the reliability and resiliency of the electric distribution system in Illinois). The Renewables Suppliers agree with the Draft Plan (p. 65) that this criterion must be applied at the transmission system level, which supports the reliability and resiliency of the local distribution system. Again, the adjacent-state facility has to be able to serve Illinois using one of the transmission systems that serve Illinois. Therefore, if the adjacent-state facility is or will be connected to the PJM or MISO grid, then the facility provides benefits under Criterion 3.

Criterion 4 (meeting goals to limit carbon dioxide (“CO₂”) emissions under federal

⁶ The emission rates shown on Table 1 can be used for these purposes since they likely are lower emission rates than those of an existing coal-fueled generator.

or State law). The Renewables Suppliers agree with the Draft Plan’s observation (p. 66) that, due to the stay of the federal Clean Power Plan and the lack of any CO2 emissions limitations under Illinois law, it may be impossible to apply this criterion literally. However, despite the absence of any federal or state CO2 emissions limitations to be met, the Renewables Suppliers agree that the adjacent-state’s facility’s CO2 emissions can be compared to those of a new natural-gas fueled generator for the same amount of MWh of generation. Therefore, if the adjacent-state renewable facility has or will have lower CO2 emissions than a new natural gas-fueled generator for the same amount of MWh generated (using the CO2 emission rates for a natural gas-fueled generator shown on Table 4-1 of the Draft Plan), and is or will be connected to the PJM or MISO grid, then the facility provides benefits under Criterion 2.⁷

Criterion 5 (contributing to a cleaner and healthier environment for the citizens of Illinois). If an adjacent-state facility provides benefits under Criterion 1 or Criterion 4, then it also provides benefits under Criterion 5.

Overall evaluation: If the adjacent-state facility provides benefits under three of the five public interest criteria, its RECs should be “qualified” to be procured and counted for RPS compliance purposes.

In determining how the “public interest” criteria are to be applied, it must be kept in mind that these criteria are only used to qualify RECs from an adjacent-state renewable generation facility to be procured for RPS compliance purposes. “Qualification” as an eligible source of RECs does not guarantee that the facility will actually be selected as a supplier of RECs for RPS compliance purposes. The adjacent-state facility will still need to be selected as a supplier in a competitive IPA procurement event on the basis of the REC price that the facility bids in the event.⁸

The Renewables Suppliers emphasize that as prospective suppliers of RECs to meet this State’s RPS goals as specified in the IPA Act, including, potentially, through new utility-scale wind and photovoltaic projects, they are interested in developing and operating cost-effective renewable generation projects that can be price-competitive in the energy and REC markets. In developing such projects, the Renewables Suppliers (and, they believe, other developers in the industry) seek to site their new projects based on factors that will benefit their competitiveness, cost-effectiveness, and ability to obtain financing, including average wind speeds, land availability and costs, construction costs, permitting requirements, and access to and cost of transmission service – regardless of political boundaries.

C. A Proposed New Adjacent-State Facility Seeking to Become “Qualified” Should Not Be Required to Submit a Signed Interconnection Agreement.

As part of its proposed process for qualifying an adjacent-state renewable generating facility to supply RECs for RPS compliance purposes, the IPA proposes to require a new facility that is not yet operational to submit a copy of the facility’s interconnection agreement with the applicable utility or RTO. Draft Plan at 68. This requirement should be deleted; instead, a new

⁷ Again, the CO2 emissions rate for a new natural gas-fueled generator will almost certainly be lower than the CO2 emissions rate of an existing coal-fueled generator.

⁸ Any location-related characteristics of an adjacent-state renewable generator that cause it to have either higher or lower costs than a renewable generator located in Illinois can be expected to be reflected in the prices bid by these prospective suppliers in the IPA’s competitive REC procurement events.

adjacent-state facility that is not yet operational should only be required to submit documentation from the RTO showing that the facility has entered the interconnection queue and is actively pursuing an interconnection agreement. Depending on the stage a new facility is at in the project development process, the facility may not yet have completed the interconnection process to arrive at an executed interconnection agreement. Indeed, whether the proposed project proceeds to construction and interconnection may depend on whether its RECs are qualified to be used in Illinois for RPS compliance purposes (and whether the facility subsequently is selected as a REC supplier in an IPA REC procurement event). Further (as the Renewables Suppliers believe the IPA is well aware), there have been considerable delays experienced at both PJM and MISO in getting through the interconnection study process to arrive at a final interconnection agreement.

Since the Renewables Suppliers have proposed that interconnection to the PJM or MISO transmission grid (§III.B above) be a factor in determining if RECs from an adjacent-state facility are “qualified,” they understand that a request to the IPA for “qualification” must include documentation that the facility is or will be interconnected to the PJM or MISO transmission system. However, documentation from the RTO showing that the facility has entered the interconnection queue and is engaged in the interconnection process should suffice.

The Renewables Suppliers also note that for the initial utility-scale wind and photovoltaic forward procurements conducted by the IPA in 2017 pursuant to amended Section 1-75(c), the IPA required bidders to submit a fully-executed interconnection agreement “if available.” If not available, the bidder was required to provide a document or documents demonstrating site control, as described in greater detail in Appendix 2 to the Request for Proposal Rules for those procurements. The Renewables Suppliers would not object if the IPA applied the same documentation requirement to requests for “qualification” going forward.

D. An Officer’s Certification of Compliance with the Criteria for a New Facility Being “Energized” Should Be Sufficient Documentation.

The Draft Plan proposes criteria for determining if a new renewable wind generating facility has been “energized” within three years following the date the ICC approved the facility’s REC procurement contract, in order for the facility to qualify as a “new wind project” so that its RECs can be counted for purposes of meeting the statutory targets for RECs from “new wind projects.” Draft Plan at 28. The Renewables Suppliers agree with the IPA’s proposed criteria for determining that a new wind generating facility has been “energized.” The Draft Plan also asks for comments on what documentation should be required to substantiate that a new wind generating facility has been “energized.” *Id.* The Renewables Suppliers believe that a verified statement or other certification from an officer of the facility owner, verifying that the criteria have been achieved, and stating the date on which the facility became energized in accordance with the criteria, would be appropriate and sufficient documentation.

E. The Process for Developing the Standardized REC Contracts Should Include the Presentation of Unresolved Comments from Prospective REC Suppliers to the ICC for Consideration and Resolution.

The Draft Plan describes a process for developing standardized contract and credit provisions to be used in REC procurements, which may be summarized as follows: (1) The Procurement Administrator (“PA”) develops draft contracts in consultation with the utilities, the IPA, the Procurement Monitor (“PM”), and ICC Staff. (2) Draft contracts are released for public comment. (3) The PA, the IPA, the utilities, ICC Staff and the PM review the comments received

and revise the contracts as needed. (4) If consensus is not reached on the contracts among these five entities, any disputes are resolved by the ICC. Draft Plan at 74.

The Renewables Suppliers are concerned that the contract development process does not allow for comments from prospective REC suppliers that are not accepted and incorporated by the PA, the IPA, the utilities, ICC Staff and the PM, to be presented to and resolved by the ICC. The proposed process only allows for the unresolved comments of one prospective party to the REC contracts – the utility – to be presented to and resolved by the ICC. This is fundamentally unfair to prospective suppliers, who are required to submit bids under the condition that if their bids are accepted, they must execute the final standardized contracts without further negotiation.

The Renewables Suppliers recognize that (as noted in the Draft Plan) the proposed contract development process is essentially the same process that has been used for previous (pre-FEJA) renewable resources procurements. However, the fact that the final standardized contracts are developed by the PA, PM, IPA, ICC Staff, and one of the two parties to the contract (the utility), and that only the utility is given an opportunity to have its unresolved comments considered and accepted or rejected by the ICC, has been a sore point for the Renewables Suppliers for years.

The Renewables Suppliers also recognize that Section 16-111.5(e)(2) of the PUA, which has not been amended, states that if the PA cannot reach agreement with the electric utility as to the contract terms and conditions, the PA must notify the ICC of any disputed terms and the ICC shall resolve the dispute. However, this does not preclude the IPA from establishing a process by which the PA also advises the ICC of any unresolved comments from prospective suppliers, and asks the ICC to consider and resolve those comments. In fact, Section 16-111.5(e)(2) also states that: “The procurement administrator shall make available to the Commission all written comments it receives on the contract forms, credit terms, or instruments.” This required step is not included in the contract development process set forth in the Draft Plan.

Accordingly, the Renewables Suppliers believe that the process for developing the standardized contracts, set forth in the Draft Plan at 74-75, should be modified to specify that: (1) the PA will provide to the ICC all written comments it receives on the proposed contract forms, credit terms, or instruments, including comments received from prospective suppliers (bidders); and (2) after the comments are considered by the PA, PM, IPA, ICC Staff and the utilities, the PA will notify the ICC of all unresolved comments from both prospective suppliers and the utilities, and ask the ICC to determine whether these comments should be accepted or rejected.

IV. CONCLUSION

The Renewables Suppliers request that the IPA revise the draft Long-Term Renewable Resources Procurement Plan in accordance with these comments.

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