

Illinois Power Agency
Draft 2024 Long Term Renewable Resources Plan (LTRRP) –
Request for Public Comments

Clean Grid Alliance’s Response to the Illinois Power Agency’s Request for
Public Comments on its Draft 2024 LTRRP Plan

September 29, 2023

Clean Grid Alliance (“CGA”) appreciates the opportunity to provide public comments on IPA’s Draft 2022 Long Term Renewable Resources Procurement Plan (“LTRRPP”) with the goal of helping IPA create a successful pathway for Illinois to meet critical clean energy procurement and equity objectives.

Table of Contents

1. REC PROCUREMENT: Post-Bid REC Price Adjustments	2
2. VOLUNTARY OR ECONOMIC DEFAULT: Definition of “economic reasons”	3
3. BENCHMARKS: Benchmark Transparency	4
4. HYDROPOWER: Allocation of Wind/Hydro Share of RECs	5
5. RPS BUDGET: How to Manage Risk of Non-payment by IL Utilities if RPS Budget is Exceeded..	5
6. REC PROCUREMENT: Improvements to Indexed REC Contracts and Procurement	6
7. MES RAMP: Ramp Rate for MES	6
8. MES REPORT FILING: Due Dates for Year-end Report and Annual Report.....	8
9. WAIVER of MES: Verification of ‘No hires’	8
10. MES: Application of MES to Utility-Scale Projects.....	9
11. ENERGY EQUITY WORKFORCE PORTAL: Information Regarding EECs Available via the Portal	9
12. ENERGY EQUITY WORKFORCE PORTAL: Making the Portal More Useful	10
13. PROJECT LABOR AGREEMENTS: Apprenticeship Hour Goals	10
14. PRICE COLLAR:	11
15. HVDC ELIGIBILITY: REC Eligibility of Projects Using HVDC Lines into Illinois	11

1. REC PROCUREMENT: Post-Bid REC Price Adjustments

On page 106 of the Draft 2024 LTRRPP the IPA makes the following request:

the IPA seeks feedback on a viable process for potentially accommodating necessary downstream post-bid REC delivery contract changes through comments on this draft Plan. (*Draft 2024 LTRRPP* at p. 106)

RESPONSE:

CGA recommends the IPA use a post-bid price adjustment mechanism that was recently filed with the NY Public Service Commission by Alliance for Clean Energy New York (“ACE”) (see attached Repsher/Chaudhari affidavit in support of ACE New York’s filing and describing the mechanism). The purpose of that proposal was to redress severe and unpredictable economic disruptions to the renewable generation industry using publicly available data to calculate the price adjustment without the need for lengthy negotiations, while preserving the integrity of the competitive auction process. Since the enactment of CEJA, the U.S. has been affected by COVID and an inflation that has materially increased the price of materials and labor for wind and solar projects being built in the U.S. This is particularly burdensome for projects that have been awarded an Indexed REC Contract. ACE NY’s post-RFP bid price adjustment mechanism can allow projects not yet in operation to move forward to completion. Without such an adjustment some projects will need to be cancelled prior to making financial commitments such as a contract or interconnection milestone payments. This price adjustment mechanism could be a useful tool to allow projects to deliver on the clean energy goals established by CEJA and would promote further participation from existing and new developers.

The post-bid price adjustment mechanism would be available to winning bidders whose projects have not yet been placed in-service. The winning bidder would notify the IPA that it is requesting the post-bid price adjustment mechanism. It would be a one-time adjustment and allowed pursuant to a provision to be set forth in the contracts. The mechanism will adjust the bid strike price up to the date of the request; thus accounting for inflationary changes between the bid price submission deadline and the end of the month in which the Seller has submitted a request to use the mechanism. This mechanism should apply to all indexed REC contracts, past and future. It is anticipated that the price adjustment will result in an Addendum to the contract and could include additional collateral requirements/payments from the Seller. Since no other terms and conditions of the contract will change, the Addendum should not need ICC approval, beyond approval in the 2024 LTRRPP. The Addendum would build upon already existing terms in the REC Agreement by giving a deadline to developers (e.g., date of first REC delivery) to ask for this price adjustment by requiring the bidder to post additional collateral corresponding with amounts required to extend the date of first

delivery by two years. This construct would ensure the option isn't available indefinitely and developers asking for such adjustment also will have to agree to a higher level of posting and penalty in case they do not construct the project after the price adjustment.

No other party addressed the topic of a price adjustment mechanism in the June comments to the Draft 2024 LTRRPP, however, ComEd submitted general comments expressing concern that "Illinois stakeholders must collaborate to create the right incentives to have utility scale projects achieve timely energization and to draw down RPS balances, particularly through larger and more frequent utility-scale procurements." ComEd also suggested that "the Agency should consider possible increases in the pricing of RECs procured from utility-scale projects, although the pricing should be below that for the Adjustable Block Program and should not exceed the Social Cost of Carbon". This price adjustment mechanism has the potential to achieve the state's policy goals.

The post-bid price adjustment mechanism has three components: [1] an adjustment for changes in capital costs (see Repsher/Chaudhari affidavit in support of ACE New York's filing, ¶64), [2] an adjustment for interest rate changes affecting project financing costs (see Repsher/Chaudhari affidavit in support of ACE New York's filing, ¶65); and [3] and an adjustment that accounts for PV module cost declines a bidder anticipated would occur (but may have not) between the bid submission date and module procurement date (see Repsher/Chaudhari affidavit in support of ACE New York's filing, ¶66).

The formula for the Solar and Wind Adjustment Mechanisms are set forth in para 67 of the Repsher/Chaudhari affidavit in support of ACE New York's filing.

CGA suggests that a sample or template of the Addendum be filed with the 2024 LTRRPP to be filed with the ICC. As for the process, CGA recommends the following steps: (1) the Seller submits a written request to the IPA to use the post-bid price adjustment mechanism; (2) the IPA calculates the post-bid price adjustment and any collateral requirements and drafts the Addendum, inclusive of the calculated price adjustment; (3) if the Seller agrees with the price adjustment then the Addendum is executed by the Seller and the IPA will send the Addendum to the Buyer(s) for execution.

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2. VOLUNTARY OR ECONOMIC DEFAULT: Definition of “economic reasons”

On pages 121-122 of the Draft 2024 LTRRPP the IPA presents its views on “Voluntary Default and Misrepresentations.” CGA has a recommendation regarding the term “economic reasons.” (*Draft 2024 LTRRPP* at p. 122)

RESPONSE:

CGA recommends that the IPA clearly define the “economic reasons.” For example, if a project is withdrawn because it incurs \$100s million in network upgrade costs, would that be an economic reason or an acceptable prudent business decision.

CGA recommends the clarification either be a definition or a specific list of criteria.

3. BENCHMARKS: Benchmark Transparency

On page 123 of the Draft 2024 LTRRPP the IPA makes the following request:

the Agency is interested in feedback on whether and how more transparency can be provided into the benchmark development process consistent with the statutory language outlined above and consistent with the objective that confidential benchmarks force bidders to propose bid prices based on a project’s necessity, and not based on visibility into what maximum prices might be considered acceptable. (*Draft 2024 LTRRPP* at pp. 123 and 115)

RESPONSE:

It is unclear to developers that the confidential benchmark developed by the procurement administrator reasonably reflects all of the external factors and state law factors affecting bid prices. A benchmark mechanism is not needed if there is a sufficiently competitive RFP, though CGA acknowledges that the statute does not grant the IPA or ICC discretion to not use the confidential benchmark. What is not prohibited under the statute, however, is disclosure of a list of factors the procurement administrator intends to use in developing a confidential benchmark, and feedback on those item. Actual numbers do not need to be revealed nor do the sources of data for those factors, just the concepts that are to be considered – for example, labor cost increase due to inflation and demand for projects exceeding available labor pool.

What would also be helpful is the ability for developers to comment on the list to ensure the confidential benchmark price captures the concepts bidders have to account for in their bids and reasonable data sources. Industry comments could provide information on those concepts that could be considered in developing the confidential benchmark, such as: (1) price ranges for certain components, (2) identification of key cost drivers, or (3) which market price indicators are used in pricing projects. For example, CGA would recommend market reports be sourced, and CGA members have indicated that reports like

Edison and Level10 are industry standards.

In addition, CGA recommends that the IPA and ICC re-evaluate whether this level of confidentiality, around the benchmark, is accomplishing its intended purpose. The rationale behind complete confidentiality, of even the categories of inputs, is that such a revelation would skew bids. There are, however, other high-profile auctions that provide robust upfront data and still incentivize the lowest bid. MISO's capacity auction is an example: the methodology is abundantly clear, the data is released several times in advance of the auction, but any concern for market "gaming" is deemed sufficiently mitigated by MISO's independent market monitor. Similarly, the IPA's competitive bidding process is reviewed to ensure that the bidding was competitive and that market power was not concentrated in 1 or 2 bidders. CGA appreciates the IPA considering options for improving the confidential benchmark development process so it yields reasonable benchmarks, particularly for wind, in the future.

4. HYDROPOWER: Allocation of Wind/Hydro Share of RECs

On page 123 of the Draft 2024 LTRRPP the IPA makes the following request:

The Agency seeks stakeholder feedback on the right approaches for distributing the 45% allocation of target REC procurement quantities between utility-scale wind projects and hydropower projects. (*Draft 2024 LTRRPP* at p. 117)

RESPONSE:

CGA recommends that the IPA allow hydropower and wind projects to competitively participate in the same joint procurement. There is no need for a carve-out at this time.

5. RPS BUDGET: How to Manage Risk of Non-payment by IL Utilities if RPS Budget is Exceeded

On page 106 of the Draft 2024 LTRRPP the IPA makes the following statement, finding, and request:

RPS budget concerns only present challenges through multiple additional delivery years of contracts being issued across the many years ahead. The necessary structural fix is decoupling a Seller's payment certainty from RPS budget risks. While this fix may require statutory change, the Agency is interested in comments on this draft Plan on whether or how the IPA or ICC's administrative authority can help solve for non-payment risks. (*Draft 2024 LTRRPP* at p. 106)

RESPONSE:

While the ultimate solution may be a legislative fix, what would provide a

modicum of support at this time is for the contract to include the protocol and payout seniority the IPA will use in the event of another RPS Budget shortfall. This sets forth the process for lenders so they understand those limits when evaluating risk.

6. REC PROCUREMENT: Improvements to Indexed REC Contracts and Procurement

On pages 114-115 of the Draft 2024 LTRRPP the IPA describes the Utility-Scale Solar and Wind Procurements, and on pages 120-121 the IPA describes its competitive procurement contracts. CGA provides the following suggestions on contracting for renewable resources.

RESPONSE:

To increase participation in Indexed REC procurement CGA has two recommendations: [1] allow for unit-contingent or as-produced contracts; and [2] procure both RECs and capacity from renewable resources.

UNIT CONTINGENT CONTRACTS: A unit-contingent contract would decouple the Annual Quantity from its fixed value, and allow a project to get paid for what it produces. Requiring a Bidder to bid a fixed quantity forces the Bidder to offer less than the project's expected annual production in order to account for year in which generation is lower, which inflates the offer price and the increases the draw/impact on the RPS Budget. This could be coordinated with under-performance penalties. Overall, this proposal would yield more RECs being procured at a lower bid price.

RECs and CAPACITY: The IPA should explore a methodology to procure both capacity and RECs from solar projects. The capacity duration should be the same as the competitive REC contract length. This type of product would reduce uncertainty around capacity revenues which reduces financing costs and bid costs for a project.

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7. MES RAMP: Ramp Rate for MES

On page 341 of the Draft 2024 LTRRPP the IPA makes the following request:

The IPA would appreciate stakeholder feedback on the following schedule for future MES increases, which by law would be subject to revision in future Long-Term Plans: (*Draft 2024 LTRRPP* at p. 341)

Table 10-1: Future Minimum Equity Standard Percentage Increases

Years	Scheduled MES Increase	% Increased
2024-2025	10%	-
2025-2026	14%	+4%
2026-2027	18%	+4%
2027-2028	22%	+4%
2028-2029	26%	+4%
2029-2030	30%	+4%

RESPONSE:

CGA recommends that the Scheduled MES Increase be adjusted to the following **for utility-scale resources**:

Years	Scheduled MES Increase	% Increased
2024-2025	10%	
2025-2026	12%	+2%
2026-2027	14%	+2%
2027-2028	18%	+4%
2028-2029	23%	+5%
2029-2030	30%	+7%

A utility-scale renewable resource developer is going to comply with the MES primarily by hiring EECs because the majority of the employees working on a project are in the construction phase. Setting a lower MES target, for these early years (when the EECs are still growing and establishing themselves), will increase the likelihood of utility-scale developers being able to comply with the MES. A utility-scale renewable resource developer will more likely be able to comply with the MES after the pool of EECs increases to meet market demand. Currently, the pipeline for EECs is not well formed. It will take time for EECs staffing to grow to a size that is able to manage a large renewable resource project. CGA’s review of the IPA website revealed no indication of how many EECs are appropriately staffed to build a utility-scale project, as opposed to a DG or community scale project (which the IPA has focused great attention to growing in the LTRRPP). If the annual MES adjustments are not

...tied to or correlated with the available pool of EECs it will create a need for waivers in these initial years of the MES.

In addition, CGA notes that the IPA has halted the increase in EEC's share of the Illinois Shines Program due to gaming concerns (2024 LTRRPP at 154). There is no consideration of that fact and how it affects the MES ramp rate proposed in the Draft 2024 LTRRPP. CGA would posit that until such gaming is controlled, there is no reason to believe it won't also manifest itself in the EECS that would be hired for utility-scale projects. Having a rapidly increasing MES for developers that will primarily use EECs would appear to incentivize gaming of the system. Moreover, utility-scale developers have no good way of managing or controlling such gaming. Therefore, CGA recommends that a separate ramp rate be applied to utility-scale developers so as to allow for the establishment of a pool of EECs that can manage utility-scale projects.

Finally, CGA encourages the IPA to provide greater transparency on the steps the IPA is taking or intends to take to prevent gaming.

8. MES REPORT FILING: Due Dates for Year-end Report and Annual Report

On page 343 of the Draft 2024 LTRRPP the IPA makes the following request:

The Agency is seeking public comment regarding whether it is helpful or disadvantageous to have the due date for both the MES Year-end Report and the Annual Report on the same day. (*Draft 2024 LTRRPP* at p. 343)

RESPONSE:

CGA recommends a specific date be established instead of the current "X days from application." A specific date is easier for the Seller to track and reduces the likelihood of a miscalculation of the filing date.

9. WAIVER of MES: Verification of 'No hires'

On page 345 of the Draft 2024 LTRRPP the IPA makes the following request:

The Agency seeks feedback on what types of documentation an entity might provide to verify the claim that [the entity] did not hire anyone in the relevant program year. (*Draft 2024 LTRRPP* at p. 345)

RESPONSE:

CGA recommends a verified affidavit from the entity's personnel department.

10. MES: Application of MES to Utility-Scale Projects

Application of MES to utility-scale developers needs clarification. Text on pages 346 and 347 of the Draft LTRRPP are in potential conflict. (*Draft 2024 LTRRPP* at pp. 346 and 347)

RESPONSE:

On page 346 the Draft 2024 LTRRPP states:

the Minimum Equity Standard only applies to the construction activities for these projects. The entity that receives the Indexed REC Contract will need to submit a Year-end Report demonstrating achievement of the MES by June 1 of each program year in which construction activities occur

This implies that the MES only applies to utility-scale projects that won a bid and only to their construction activities. However, the following statement on p. 347 contradicts that:

Under Section 1-75(c-10)(3) of the IPA Act, bidders in the Agency's competitive procurements for RECs from new utility-scale wind, solar, and brownfield site photovoltaic projects are required to meet the Minimum Equity Standard at the applicable level for the delivery year in which the procurement event is conducted (emphasis added).

This statement on p. 347 is at odds with the quote provide from p. 346, because it requires a utility-scale developer to comply with the MES in the year in which the procurement event is conducted, which is not necessarily the year in which construction occurs.

11. ENERGY EQUITY WORKFORCE PORTAL: Information Regarding EECs Available via the Portal

The Draft 2024 LTRRPP's discussion of the Energy Equity Workforce Portal does not provide necessary information for utility-scale developers regarding Equity Eligible Contractors. (*Draft 2024 LTRRPP* at p. 349)

RESPONSE:

The discussion of the Energy Equity Workforce Portal should provide information for utility-scale developers to successfully implement the MES. Utility-scale developers will almost exclusively comply with the MES by hiring EECs, therefore, the IPA needs to explain how it intends to monitor or present information about EECs, particularly those with staffing sufficient to build a utility-scale renewable project.

The Draft 2024 LTRRPP does not discuss the status of EEC information in the Equity Portal. Moreover, section 1-75(c-25)(2)(F) of the IPA Act requires the

Workforce Portal to have information re: “a list of equity eligible contractors with their contact information, types of work performed, and locations worked in” and to maintain a list of EECs that participated in Clean Jobs Workforce Network Program, Clean Energy Contractor Incubator Program, or Clean Energy Primes Contractor Accelerator Program(1-75(c-25)(3)).

12. ENERGY EQUITY WORKFORCE PORTAL: Making the Portal More Useful

On page 106 of the Draft 2024 LTRRPP the IPA makes the following request:

IPA welcomes feedback on improvements to the Equity Portal to make it more user friendly and a more useful tool. (*Draft 2024 LTRRPP* at p. 353)

RESPONSE:

The most beneficial improvement to the Energy Equity Workforce Portal would be to increase participation by and information about the Equity Eligible Contractors.

13. PROJECT LABOR AGREEMENTS: Apprenticeship Hour Goals

On pages 107 to 110 the Draft 2024 LTRRPP describes Section 1-75(c)(1)(Q)(1) of the IPA Act and its requirement that new utility-scale wind, utility-scale solar and brownfield site photovoltaic projects that bid into the competitive procurement are subject to prevailing wage requirements included in the Prevailing Wage Act. On page 109 of the Draft 2024 LTRRPP the IPA makes the following statement:

As proposed by the IPA in Docket No. 22-0231 and affirmed by the Commission in approving the Agency’s 2022 Plan, project labor agreement submittals must also include a description of the actual efforts the entity will take or has taken to achieve “goals for apprenticeship hours to be performed by minorities and women and [] goals for total hours to be performed by underrepresented minorities and women.” (*Draft 2024 LTRRPP* at p. 109)

COMMENT:

Developers contract out the functions associated with the apprenticeship programs and should not be held responsible for managing them beyond a contract clause. Additionally, the pool of labor that would qualify for these programs is still quite limited and at time of bid, developers have little visibility into what size that pool might become in the future. As such, representing that we can comply becomes challenging, especially when damages for noncompliance are substantial. The waiver for compliance helps that confidence, but the risk of noncompliance still impacts our decision-making.

14. PRICE COLLAR:

On page 113 of the Draft 2024 LTRRPP the IPA makes the following request:
no price collar is proposed in this draft 2024 Plan, although the IPA is interested in additional feedback as to whether or how a price collar should be instituted.
(*Draft 2024 LTRRPP* at p. 113)

RESPONSE:

CGA continues to recommend that a price collar not be used. A price collar will increase the risk to utility scale renewable resource developers. This has the potential effect of discouraging participation in the IPA's competitive procurement of indexed RECs and increasing the bid prices above what would be submitted in the absence of a price collar.

15. HVDC ELIGIBILITY: REC Eligibility of Projects Using HVDC Lines into Illinois

On page 96 of the Draft 2024 LTRRPP (2d paragraph from the bottom of the page) the IPA examines REC eligibility of facilities that will use an HVDC line to transmit RECs and energy into Illinois. The Draft Plan states:

the Agency is continuing to assess how this new approach to RPS qualification can be integrated into its source specific competitive procurement processes. Until that process is formalized – and noting that applicable HVDC lines and transmission stations are apparently in the early stages of development – those requests will be handled within the context of individual procurement event qualification. (*Draft 2024 LTRRPP* at p. 96)

RESPONSE:

If a renewable resource uses an HVDC line that resource should automatically be REC eligible due to the line being deemed REC eligible by the statute. Unlike AC lines, renewable resources can only interconnect to an HVDC line at one point of interconnection outside of Illinois. If that POI is outside the RPS's locational eligibility zone then most likely the footprint of a majority of the projects delivering energy via the HVDC line will be outside the locational eligibility requirement for the RPS (20 ILCS 3855/1-75(c)(1)(I)). Those renewable resources that use the HVDC line should be deemed to be located in the locational eligibility zone because they will be injecting energy within Illinois. The IPA will undermine the use of the HVDC lines for renewable resources if it does not allow all projects that interconnect and intend to deliver energy/RECs via the DC line to qualify as an eligible REC generator.

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