



RE: IPA Indexed REC Post-Award Contract Changes Workshop Process Outline and Stakeholder Feedback Request

Clean Grid Alliance appreciates the opportunity to comment on the Illinois Power Agency’s (“IPA”) process for exploring the issue of post-award contract changes for indexed renewable energy credit (“REC”) contracts under the 2024 Long-Term Renewable Resource Procurement Plan (“2024 Plan”).

Clean Grid Alliance (“CGA”) is a not-for-profit corporation providing outreach, education, and advocacy to promote renewable energy resource access to the electric transmission system and wholesale electric market throughout the Midwest. CGA’s members include developers of wind and solar energy generation, energy storage owners and operators, environmental organizations, clean energy advocates, and businesses providing goods and services to the renewable energy industry across the country.

The Climate and Equitable Jobs Act, Pub. Act 102-0662, 2021 Ill. Laws 11852 (“CEJA”), established ambitious goals that ramp minimum target REC procurement levels from new projects from 10 million RECs delivered annually by the end of 2021 to 45 million by the end of 2030. Yet, fiscal and procedural limitations are threatening to block adequate progress toward these targets. The inability to adjust a strike price or other contract terms when needed has proven particularly problematic.

As the IPA has acknowledged, supply chain issues, component costs, variable interest rates, interconnection costs and delays, and other variables that are outside a developer’s control may cause a project to become uneconomic or may otherwise interfere with contract performance. These concerns have been exacerbated in the past five years with increased uncertainty from suppliers, lenders, and interconnection timelines. This situation threatens project completion and results in an increasingly large REC gap, additional delay, and, ultimately, an inability to meet CEJA’s stated renewable energy goals.

For these reasons, CGA’s members have identified the ability to engage in post-award contract negotiations as a necessary pathway to success for Illinois’s indexed REC procurement process.

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Given the importance and timeliness of this issue, CGA looks forward to participating in the proposed workshop process, and provides the following responses to IPA's June 7, 2024, request for feedback:

Process, timing, and scope-related questions for feedback:

1. Section 5.4.8 of IPA's 2024 Plan outlines a series of key substantive questions that the IPA believes must be addressed through the workshop process.
 - a. Do stakeholders believe these are the key issues that must be addressed through workshops and any proposal?
 - b. What additional issues should be covered by the workshop process and any proposal?
 - c. Are there any new developments since this list was developed (October 2023) of which the IPA should be aware?

CGA Response: The issues identified in the 2024 Plan are a good starting point but are not comprehensive. This initial list focuses heavily on issues of cost; however, this is not the only contract term that may need adjustment. CGA believes the scope should be broadened to include negotiation of other terms of the contract, such as quantity and delivery period, that may be affected by market or other conditions between the contract award and project energization. In addition, we request that the IPA include in its final proposal a clear indication that the renegotiation process is open to previously-awarded bids as well as to future bids. Finally, CGA encourages the IPA to keep the scope broad enough to maintain flexibility to address issues raised during the workshops.

2. In terms of timing, cadence, and structure, how should workshops be structured?
 - a. One thought is that workshops could be organized around substantive topics. Would stakeholders prefer that approach? If so, which topics should be used for organizing workshops?
 - b. Another potential approach is to separate the workshop by stakeholder perspective (Buyer, Seller, the IPA/state, financing party, others). Would stakeholders prefer this approach? If so, how should these workshops be substantively structured?
 - c. Is monthly cadence a good cadence for these workshops?
 - d. Are 3-5 workshops sufficient for this exercise?
 - e. How should opportunities for written feedback be folded into the workshop process?

CGA Response: CGA prefers workshops organized around substantive topics rather than stakeholder perspectives (i.e. the approach described in 2. a. is preferred to the approach described in 2. b.). This gives all stakeholders the opportunity to hear from one another and to engage in a meaningful back and forth on the substantive issues being discussed. CGA suggests beginning the process with a discussion of various state approaches that the IPA has already identified (through discussions described with the Clean Energy States Alliance and the existing models in New York, Massachusetts, New Jersey, Rhode Island, and Connecticut). Based on the discussion at the first workshop, stakeholders could select

topics for the subsequent workshops for a deeper understanding of selected topics. 3-5 monthly workshops is reasonable, so long as the process is not extended beyond the February 20, 2025, deadline established in the 2024 plan; written feedback should be accepted at any time throughout the process.

3. Are there any outside speakers or consultants we should bring in for these workshops or for managing the overall process?
 - a. What role should our Procurement Administrator (NERA) have in this process?
 - b. Should the IPA consider a subcontractor to assist with administration of workshops and the development of work product? If so, what skill or experience should be required?

CGA Response: NERA should be involved in the workshops. They are instrumental in calculating the benchmark price for procurements and may have insights on costs and economic indicators for project development. Given the short timeline for the workshops, the IPA should consider using its staff and current consultants (NERA and Levitan) to assist in the workshops and product development.

4. Proposal Development
 - a. A compliance filing may be developed at the conclusion of this workshop process; if the IPA determines that a renegotiation process is viable and appropriate, that filing will outline the process. That compliance filing is preceded by the development of a draft proposal for stakeholder comment.
 - i. What elements are necessary for the structure of any draft proposal?
 - a. Which contracts would this be applicable to? Make sure this is clear for all categories.
 - b. Premature to ask this – this will need to evolve/develop throughout the process.
 - ii. How can the workshop process be used most effectively to inform the development of that proposal filing?
 - b. Any proposal is likely to have parties in favor of or opposed to that proposal. In assembling a compliance filing with the ICC, how should the IPA handle that support or opposition?

CGA Response: CGA agrees that it is unlikely that all recommendations will be reached by consensus. CGA encourages the IPA to put forward the recommendations that best support meeting the goals of CEJA while minimizing cost impacts to consumers. If there are recommendations that come out of the workshop process that IPA believes are outside the scope of its authority to implement, the final proposal should include concrete requests or recommendations to the legislature to take action to ensure the program's success. Further, the timeline of this process overlaps with scheduled legislative sessions, therefore this process should not be used to delay or impede legislative action related to these topics intended to support the goals of CEJA or building more clean energy.

Other states' approaches questions for feedback:

1. Are there states we should be researching and talking to, in addition to the above?
2. Are there recent statutory or regulatory developments about which we should be aware?
3. Many of these states have dealt with these challenges in the context of off-shore wind projects and changed assumptions in off-shore wind project development costs. By contrast, Illinois faces this concern with respect to onshore wind and solar project development.
 - a. To what extent, and how, are these issues different for onshore renewable energy projects versus offshore projects?
 - b. How do renewable energy generation technological differences more generally inform the issues that need to be worked through in determining whether post award contract changes are warranted, and if so, through what process?

CGA Response: CGA encourages the IPA to consider the model recently proposed by Connecticut in its October, 2023, request for proposals for offshore wind procurements. Under this model, bidders submit pricing at a fixed rate or a rate that is indexed to the price of listed macroeconomic factors and commodities that would be fixed in the future. The indexed pricing option adjusts for changes that may occur to adjust the final price up or down by no more than 15%.¹

In addition, IPA should consider the approach proposed by the Alliance for Clean Energy New York ("ACE NY") in its June 7, 2023, petition to the New York Public Service Commission. ACE NY engaged PA Consulting Group ("PA") to analyze the changed market conditions facing projects that received an award through NY's REC solicitation process but that had not yet been completed. Using this information, PA developed a recommendation for an adjustment mechanism. PA's proposed approach would allow a one-time contract adjustment, calculated using a formula that incorporates publicly available indices, selected to capture inflationary effects as they have specifically affected the renewable development industry.²

CGA offers these models for the purposes of discussion only and by doing so is not taking a position on or endorsing either of these approaches as the correct approach for Illinois at this time.

¹ <https://portal.ct.gov/deep/news-releases/news-releases---2023/connecticut-releases-clean-energy-solicitations>. The full RFP language is available here: [https://www.dpuc.state.ct.us/DEEPEnergy.nsf/c6c6d525f7cdd1168525797d0047c5bf/5f3d7ee5480fdbb085258a5500500d7c/\\$FILE/Final%20RFP%20\(2023%20OSW\)_Revised%20V3.pdf](https://www.dpuc.state.ct.us/DEEPEnergy.nsf/c6c6d525f7cdd1168525797d0047c5bf/5f3d7ee5480fdbb085258a5500500d7c/$FILE/Final%20RFP%20(2023%20OSW)_Revised%20V3.pdf). Accessed 6/21/2024.

² *Petition of the Alliance for Clean Energy New York to Address Post-COVID Impacts on Renewable Development Economics and Contract Considerations*. Filed June 7, 2023, in NY PSC Case 15-E-0302. <https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=15-E-0302&CaseSearch=Search#>. Accessed June 27, 2024. The proposal is described in the attached affidavit of Mark Repscher and Ashish Chaudhari, section V, beginning on p. 24 (PDF p. 63).

Thank you for this opportunity to comment. Clean Grid Alliance looks forward to continuing to work with IPA on this important issue.

Respectfully submitted this 28th day of June, 2024.

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