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**Addressed to:** Illinois Power Agency

**Attn:** IPA Director of Renewable Energy Finance, Chandrika Mital

**Date:** June 28<sup>th</sup>, 2024

## **Emeren US, LLC – Post Award Contract Change Workshops Comments**

### **Introduction**

Emeren US, LLC f/k/a ReneSola Power Holdings, LLC is a developer of both solar and battery storage projects. We were awarded an IPA REC contract in the first IPA REC solicitation in the Spring of 2022, where the average winning bid price was \$52.43/MWh. We immediately saw the following three solicitations average winning bids skyrocket: \$72.59/MWh in the Fall 2022, \$69.83/MWh in Summer 2023, and \$74.10/MWh in Fall 2023. We are also active in the New York market, where they have seen a very similar trend in terms of their average winning Index REC strike price: \$54.84/MWh in their 2020 solicitation, then \$63.08/MWh in 2021, and up to \$80.96/MWh in 2022. New York and NYSERDA addressed this issue by holding similar workshops to what the IPA has laid out, where developers brainstormed with NYSERDA and worked on how to reach common ground and the goals of both parties. Ultimately, NYSERDA refunded contract security to projects that had not yet signed their REC contracts and allowed them to re-bid into a new expedited solicitation. The expedited solicitation was open to all, but contained several maturity requirements that favored more developed projects. Overall, both parties were satisfied with the outcome.

Inflation has significantly impacted the solar energy market, driving up costs for materials, labor, and other essential elements necessary for project completion. The increase in expenses has put a strain on project budgets and timelines, ultimately making it challenging for developers to meet the financial and operational goals set forth in the initial contracts. Adapting to the current economic conditions is crucial to ensure the success of these projects and for Illinois to meet its renewable energy goals. That being said, we are in support of the development of post-award contract changes as it relates to the IPA REC contract awardees.

### **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?

**A:** Yes we strongly believe that price changes to previously awarded contracts is

something that needs to be addressed. Projects awarded one or more years ago have experienced a significant change in the market caused by inflation. As you have alluded to, this is happening in markets all across the country.

b. What additional issues should be covered by the workshop process and any proposal?

A: This isn't too related to the IPA, but have there been discussions on how to deal with the township/county pushback on renewable projects? (i.e. Will County has 36 pending solar applications and 3 active lawsuits).

c. Are there any new developments since this list was developed (October 2023) of which the IPA should be aware?

A: None that we can think of.

2. In terms of timing, cadence, and structure, how should workshops be structured?

A: We think the ideal structure is monthly meetings to start and then as progress is made, consider switching meetings to bi-weekly. Our main concern is timing of this entire process, and I assume we are not alone. Contracts awarded in 2022 may be coming up on interconnection or construction deadlines, site control expiration, etc., so we think it is crucial that we stick to the proposed schedule. We would prefer to meet more regularly to make the process as effective and efficient as possible.

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?

A: We think this would be a good approach. It would be most productive if the topics were agreed upon by both the stakeholders and the IPA prior to each meeting, maybe through comments submission or another process that involves both parties.

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?

A: Although there will be varying perspectives, we believe this structure would not be very productive. All stakeholders should be involved in the same conversations.

c. Is monthly cadence a good cadence for these workshops?

A: Our main concern is the timing of this process, due to strict deadlines from interconnecting authorities. So bi-monthly might be better to start to ensure all topics are able to be covered.

d. Are 3-5 workshops sufficient for this exercise?

A: Similar to our answer to the previous question, our main concern is with the timing of this process. We would think this would be sufficient, but in the case more workshops are needed, we would prefer that they don't push back the proposed timeline.

e. How should opportunities for written feedback be folded into the workshop process?

A: It would be good if the stakeholders were given the opportunity to submit a list of questions and/or topics before every meeting to discuss at the upcoming meeting. Then, it would be helpful if they also continued to solicit feedback in a similar fashion, by sending questions to the stakeholders.

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?

A: NERA could act as a liaison between the IPA and stakeholders. They could provide guidance on contract negotiations, make sure conversations are productive and provide insight during workshops.

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?

A: We think it is a good idea to bring in a subcontractor to assist with administration of workshops and development of work product. Key experience would be renewable energy contract management, experience with renewable policy and general stakeholder engagement. But the most important skill would be the ability to understand the needs and challenges that both parties face (the IPA and the stakeholders). The firm that led the inflation adjustment petition in New York was a law firm called Greenberg Traurig, LLP, based out of Albany, NY. They have extensive experience with renewable energy contracts, renewable, policy, etc, and they were exceptional in terms of working to find middle ground between what the developers and NYSERDA were both asking for. They may not be as well versed in the IL renewable market, but the IPA program is very similar to the NYSERDA program in NY. We think it would be a great idea to engage them to get their thoughts/advice on how to proceed with this process.

#### 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: The most vital element of the draft proposal is ultimately the evidence of inflation's effect on the industry and how it has impacted the previously awarded projects. Outside economic consultants might be a great asset as they can provide sufficient details and evidence. It is also crucial that an implementation plan is proposed with specific steps on how the IPA will proceed.

We believe the petition submitted to the NY PUC by ACE NY in June 2023 regarding the inflation adjustment in NY was very well structured. We think a draft proposal with a similar structure would be most effective. This petition can be found by searching: "PETITION OF THE ALLIANCE FOR CLEAN ENERGY NEW YORK TO ADDRESS POST COVID-19 IMPACTS ON RENEWABLE DEVELOPMENT ECONOMICS AND CONTRACT CONSIDERATIONS"

ii. How can the workshop process be used most effectively to inform the development of that proposal filing?

A: We believe that it is crucial for both sides to be open and realistic regarding the proposal filing and how it will be received. We mention this because throughout the New York petition process, there were murmurs that it was always going to be denied and have the developers re-bid, from the beginning. If this was more effectively communicated, then it would have saved a lot of time and energy for both parties.

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?

A: As we mentioned above, it is important to be realistic in the approach. We believe it would be beneficial to all involved if the IPA and the ICC could communicate at a high level throughout the process (if possible). We also think it's important to have a balanced representation of stakeholder views and input from several groups.

**Other states' approaches questions for feedback:**

1. Are there states we should be researching and talking to, in addition to the above?

A: It was mentioned in the plan, but we strongly suggest that New York is researched. We were involved with the REC re-negotiation process with NYSERDA through ACE NY. A calculation was proposed and fought for, but was ultimately turned down by the NY PUC because their procurement process needs to be competitive. That being said, I thought the overall outcome was very fair: developers were refunded their security deposits and given the opportunity to re-bid their projects into an expedited solicitation. This solicitation was fair per the NY PUC standards because it was open to all, however, emphasis was put on more mature projects.

2. Are there recent statutory or regulatory developments about which we should be aware?

A: Not that we can think of.

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?

A: We do not have any experience with wind development.

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?

A: We do not have any experience with wind development.