

## **Illinois Power Agency Compliance Filing for Adjusting the Indexed REC Process**

February 19, 2025

### **Background**

In its Final Order approving the Illinois Power Agency’s (“Agency” or “IPA”) 2024 Long-Term Renewable Resources Procurement Plan (“Long-Term Plan”) on February 20, 2024, the Illinois Commerce Commission (“Commission”) adopted the IPA’s proposed post-award workshop process described in Section 5.4.8 of the IPA’s 2024 Long-Term Plan.<sup>1</sup> The IPA planned the workshops to discuss challenges and potential solutions to these challenges faced by renewable energy project developers with projects that have been selected in the Agency’s Indexed renewable energy credit (“REC”) procurement events, stemming from recent volatile market conditions and changing project economics. The Commission’s approval of the IPA’s workshop process provided that the IPA’s workshops must conclude with a compliance filing within one calendar year after the Commission approved the 2024 Long-Term Plan on February 20, 2024. This Compliance Filing responds to the Commission’s directives.

### **The IPA Plans Two Improvements to the future Indexed REC Procurement Process starting Summer 2025**

Through the workshop process, the Agency and stakeholders considered the use of full bilateral contract renegotiation. Ultimately, feedback received through the workshop process and from the comments received from stakeholders resulted in the Agency determining that a formula-based inflation adjustment mechanism that accounts for market changes is likely a simpler, more responsive, and potentially less costly approach compared to full bilateral contract renegotiation.

Therefore, to aid in minimizing the negative impacts of volatile market conditions and evolving project economics, the Agency plans on implementing a one-time post-award inflation adjustment mechanism for each renewable energy technology type participating in its Indexed REC procurements. Within the inflation adjustment mechanism, the Agency plans to include three unique inflation adjustment formulae to apply to each technology type in the Agency’s Indexed REC procurements: a unique formula for utility-scale solar and brownfield site photovoltaic projects, a unique formula for utility-scale wind projects, and a unique formula for hydropower projects. Each adjustment mechanism is described below. The Agency also plans to provide developers an option to request a one-time, post-award change to the annual REC delivery quantity defined in their Indexed REC contract, as described in greater detail below. The Agency does not plan to have the post-award inflation adjustment mechanism and the annual REC delivery adjustment be applied retroactively to existing contracts but instead plans for these adjustments to be used in Indexed REC contracts starting with the Summer 2025 Indexed REC procurement event.

### **Stakeholder Feedback on the Two Planned Improvements**

The IPA researched how other states have responded to renewable energy projects experiencing economic challenges. The IPA held discussions with five northeastern states (Connecticut, Massachusetts, New Jersey, New York, and Rhode Island) where renewable energy projects have faced economic challenges. The IPA then conducted a series of five workshops across July through December of 2024<sup>2</sup> to discuss the challenges faced by renewable energy project developers, the approaches

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<sup>1</sup> Final Order, ICC Docket No. 23-0714 at 16 (Feb. 20, 2024).

<sup>2</sup> IPA workshops were held on: July 29, 2024; August 26, 2024; September 30, 2024; October 21, 2024; and December 2, 2024. All workshop agendas, attendee lists, notes from workshop discussions, and workshop recordings are available on the IPA’s website: <https://ipa.illinois.gov/renewable-resources/stakeholder-engagement/downstream-negotiation-for-indexed-rec-contracts.html>

adopted by the other states, and potential solutions the Agency should consider implementing in its own procurements. Key topics heard over the course of the workshops were the need for an inflation adjustment mechanism, the need for the developers to be able to modify the contracted REC quantities post-award, and the need to eliminate revenue uncertainty for developers due to the State’s RPS budget constraints.<sup>3</sup> Based on the feedback received from workshop participants, on January 17, 2025, the IPA released a draft proposal for stakeholder feedback on two proposed improvements to the Indexed REC procurement process to be implemented in future competitive procurements starting with the Summer 2025 Indexed REC procurement event.<sup>4</sup> In the draft proposal, the IPA sought stakeholder feedback on these two improvements: (1) developing an inflation adjustment mechanism which bidders may elect to adopt during the competitive procurement process; and (2) developing a mechanism by which sellers can initiate a one-time change to REC delivery obligations under their Indexed REC contract.

Stakeholder comments to the draft proposal were due by February 3, 2025. The Agency received five sets of stakeholder comments on the draft proposal from Commonwealth Edison (“ComEd”), Clean Grid Alliance (“CGA”), Earthrise Energy, Inc. (“Earthrise”), Emeren US, LLC f/k/a ReneSola Power Holdings, LLC (“Emeren”), and Vistra Corp. (“Vistra.”).<sup>5</sup> Stakeholder feedback is captured in the improvements discussed below.

### **Planned Improvement #1: Inflation Adjustment Mechanism**

The IPA plans to develop an inflation adjustment mechanism as an opt-in, one-time price adjustment to the strike price in Indexed REC contracts for each renewable energy technology type including utility-scale solar and brownfield site photovoltaic projects, utility-scale wind projects, and hydropower projects. This inflation adjustment would not be a contract renegotiation process but instead would be a formulaic adjustment. The Agency does not plan to have the inflation adjustment be implemented retroactively for already-executed contracts, but rather to be available for Indexed REC contracts awarded in future competitive procurements starting with the IPA’s Summer 2025 Indexed REC procurement event.

The Agency plans to develop three separate technology specific formulae to be used in the inflation adjustment mechanism—one formula for solar technology, a second formula for wind technology, and a third formula for hydropower technology. The IPA will evaluate all risk factors during its formula development process, including interest rates, technology specific cost component indices, the producer price index, and the consumer price index. The IPA will aim to have the three formulae weighted according to publicly available inflation indices applicable to different project components; and the weighting will be based on the components’ representative percentage of the total project costs for each technology type (solar, wind, or hydropower technologies). The technology-specific inflation adjustment mechanism will be included in the Draft Summer 2025 Indexed REC Contract that the Agency will release for public comment on April 16, 2025. The Agency will also host a public workshop on April 30, 2025 to discuss and seek stakeholder feedback on the Draft Indexed REC Contract and the inflation adjustment mechanism formulae.

The inflation adjustment mechanism will account for, but will not be limited to, changes to project costs due to inflation occurring between the time that the developer bids into the IPA’s competitive

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<sup>3</sup> House Bill 587 (“HB 587”), which passed in the Illinois General Assembly on January 7, 2025, currently is awaiting action by the Governor, and includes language to address RPS budget constraints. If enacted, sellers under existing Indexed REC contracts will be entitled to full, prompt, and uninterrupted payments.

<sup>4</sup> The Request for Stakeholder Feedback also includes an Appendix detailing the background of the IPA’s research prior to the workshops and the workshop structure:

[https://ipa.illinois.gov/content/dam/soi/en/web/ipa/documents/20250117-ipa-draft-proposal-for-adjusting-the-indexed-rec-procurement-process\\_vf.pdf](https://ipa.illinois.gov/content/dam/soi/en/web/ipa/documents/20250117-ipa-draft-proposal-for-adjusting-the-indexed-rec-procurement-process_vf.pdf)

<sup>5</sup> <https://ipa.illinois.gov/renewable-resources/stakeholder-engagement/downstream-negotiation-for-indexed-rec-contracts/stakeholder-feedback-on-draft-proposal-for-adjusting-indexed-rec.html>

procurement event and the adjustment date. The IPA plans that for developers who choose to opt into the adjustment mechanism, the adjustment will be automatically applied at the adjustment date which will be tied to a specific project development milestone. This approach is intended to ensure that all bidders have access to the same flexibilities and the same adjustment process— thus ensuring that the adjustment is applied in a non-discriminatory manner. The project development milestone associated with the adjustment date in the formula will be established in conjunction with the formula development and will be clearly defined to avoid any confusion. The project development milestone will be tied to a critical project delineator that impacts project economics and overall project viability, such as start of construction, financial close, notice to proceed, or another such milestone. Further details around the project development milestone will be disclosed as part of the inflation adjustment mechanism that will be included in the Draft Summer 2025 Indexed REC Contract released for stakeholder feedback on April 16, 2025.

The Draft Summer 2025 Indexed REC Contract that will be released for public comment will also include the IPA’s bid evaluation process. The IPA plans that for bidders choosing to opt into the inflation adjustment mechanism at bid submission, the contracted strike price would be adjusted one-time to account for market changes between the bid proposal submission date and the project milestone date— which would be governed by the technology specific inflation adjusted formula and the indices in that formula. Under this proposal, the IPA would evaluate the most appropriate approach for implementing optionality during bid evaluation and project selection.

The IPA will develop the inflation adjustment formula utilizing an inclusive and transparent process. Where possible and appropriate, the Agency will use publicly available sources, which will facilitate continued transparency of inputs and formula results. The IPA will strive to create an inflation adjustment mechanism that is reflective of and responsive to market changes; meaning that as market changes increase or decrease project costs, the corresponding bid price will be commensurately adjusted to reflect those changes. To inform the formula development process, Agency is exploring formula development best practices across five northeastern states that have implemented an adjustment formula into rebidding options for renewable energy contracts.

Finally, the IPA is not planning to implement the inflation adjustment mechanism retroactively to existing Indexed REC contracts. It is understood that existing Indexed REC contracts likely already account for at least a portion of market-based inflationary changes. Further application of an inflationary adjustment through use of the inflation adjustment mechanism may create a scenario of double-counting inflationary risk for these contracts. Projects that were previously awarded and are no longer economic at the strike price originally bid, have the option to terminate their current Indexed REC contracts and re-bid into a future IPA competitive procurement to avail the inflation adjustment mechanism. A project in these circumstances that chooses to rebid will forfeit their collateral under their previously awarded Indexed REC contract, but will not face any suspension from participation in the IPA’s future competitive procurement events. The Indexed REC Contract outlines the process to terminate the contract. In such a case, the developer provides a written notice to each Buyer (Ameren Illinois, Commonwealth Edison, and MidAmerican). The Buyer will terminate the agreement within twenty (20) business days of the later of: (i) the receipt of written notice from the developer; or (ii) the receipt of payment of collateral. The contract must be fully terminated prior to the deadline to submit the Part 1 Proposal for the project in a subsequent procurement event and evidence, including the termination letters issued by each company and evidence of payment of collateral to each company, is required for participation.

## **Planned Improvement #2: Change to the Delivery Obligations Section of the Indexed REC Contract**

The IPA plans to provide for a one-time, post-award annual REC delivery quantity change for utility-scale solar, brownfield site photovoltaic, hydropower, and utility-scale wind projects. Like the inflation adjustment mechanism, the REC quantity change would not be implemented retroactively, and it would apply

to Indexed REC contracts in the IPA’s future competitive procurement events starting with Summer 2025 Indexed REC procurement event. The one-time, post-award REC delivery quantity change would only allow for a REC delivery reduction and not a REC delivery increase. The annual REC delivery quantity change may only be triggered if there is a significant reduction to the nameplate capacity size or annual generation as a result of one of the following four project development categories being changed — changes to the land area being considered for the project, interconnection costs increase, transmission upgrade or reconfiguration costs increase, and changes in availability of project construction materials. The Agency does not plan to have a minimum or capped percentage for the REC quantity reduction. However, any project requesting the REC reduction would need to furnish documentation for why the change is needed. The Seller would be required to furnish documents to show that the REC delivery reduction being sought is stemming from changes in land area being considered for the project, interconnection costs, transmission upgrade costs, or changes in availability of project construction materials—and must demonstrate that the specific reduction in quantity sought connects back to those changes.

The Seller’s one-time request for a REC quantity reduction must occur prior to the start of project construction. A Seller requesting the REC reduction would then be required to receive approval from the IPA for the reduction. The IPA would approve or decline the request at Agency’s reasonable discretion. No other contract changes other than the REC delivery reduction request will be entertained through this process.

The Agency will define a “significant reduction” in REC quantities or nameplate capacity of the project in the Draft Summer 2025 Indexed REC Contract that will be released on April 16, 2025. The Agency does not anticipate that the post-award annual REC delivery quantity change would require the Seller and Buyer to enter into a new Indexed REC contract.

Lastly, an eligible Indexed REC Contract awardee may take advantage of both the proposed inflation adjustment mechanism and the post-award annual REC delivery quantity reduction, as the planned adjustments are not mutually exclusive. The IPA will provide additional details around the inflation adjustment mechanism, formulae development, bid implementation and evaluation, REC delivery contract change, and the proposed contractual requirements associated with adjusting the annual REC delivery quantity when it releases the Draft Summer 2025 Indexed REC Contract for public comment on April 16, 2025.

### **Implementation Timeline for the Two Planned Improvements**

On February 5, 2025, the Agency released its Summer 2025 Indexed REC procurement calendar.<sup>6</sup> The calendar provides the timeline under which the Agency plans to develop its post-award inflation adjustment mechanism and annual REC delivery adjustment used in the Indexed REC contracts starting with the IPA’s Summer 2025 competitive procurement event. The Agency plans to make the Draft Summer 2025 Indexed REC Contract with the planned adjustments available for public comment from April 16, 2025 through May 7, 2025. The Agency also plans to host a public workshop on April 30, 2025 to discuss the Draft Indexed REC Contract and the planned adjustments. On May 28, 2025, the Agency plans to release its Indexed REC Contract and RFP documents for the Summer 2025 Indexed REC procurement, which currently has a bid date of August 1, 2025.

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<sup>6</sup> <https://www.ipa-energyrfp.com/calendar/>.