STATE OF ILLINOIS
ILLINOIS POWER AGENCY

COMMONWEALTH EDISON COMPANY'S COMMENTS IN RESPONSE TO THE ILLINOIS POWER AGENCY'S "REQUESTS FOR STAKEHOLDER FEEDBACK FOR 2024 LONG-TERM PLAN DEVELOPMENT" ISSUED ON MAY 26, 2023

June 16, 2023

Commonwealth Edison Company ("ComEd") submits these Comments in response to the Illinois Power Agency's ("IPA" or "Agency") "Requests for Stakeholder Feedback for 2024 Long-Term Plan Development" issued on May 26, 2023.[1]

ComEd appreciates that the Agency's May 26th Request includes the opportunity to submit Comments on "any … topic[s] related to the Agency's work" as well as to respond to the Request's more specific Questions regarding the Agency's forthcoming (by August 15, 2023) draft 2024 Long-Term Renewable Resources Procurement Plan ("LTRRPP"), Chapters 3, 4, 5, 6, and 9.

ComEd is submitting Comments to address the shared goal of making progress to meet Renewable Energy Credit ("REC") procurement requirements given the fact that current results have fallen short of a trajectory that is needed to achieve the State's objectives and targets. Given that this concern is shared by the Agency and many stakeholders, ComEd provides here some high-level ideas for how the State may be able to increase its progress toward its objectives and targets. ComEd also welcomes Comments of other stakeholders to that end. ComEd's Comments do not directly address the Request's specific questions.

I. The State's Objectives and Targets

ComEd sets forth the following background information regarding the State's objectives and targets for renewable energy procurement by electric utilities in accordance with the Agency's LTRRPPs as approved by the Illinois Commerce Commission ("Commission") under the Illinois Power Agency Act ("IPA Act"), 20 ILCS 3855, and the Public Utilities Act ("PUA"), 220 ILCS 5, as amended by the Climate and Equitable Jobs Act ("CEJA"), P.A. 102-0662 (effective Sept. 15, 2021). ComEd recognizes that this material is well-known to the Agency and to many stakeholders.

CEJA, among many other changes to the IPA Act, amended Section 1-5, on "Legislative declarations and findings", by adding subsection (1.5), which states: "To provide the highest quality of life for the residents of Illinois and to provide for a clean and healthy environment, it is the policy of this State to rapidly transition to 100% clean energy by 2050." 20 ILCS 3855/1-5(1.5). "'Clean energy' means energy generation that is 90% or greater free of carbon dioxide emissions." 20 ILCS 3855/1-10. Thus, in brief, clean energy includes renewable energy and nuclear power.

[1] The Request may be found here: https://ipa.illinois.gov/content/dam/soi/en/web/ipa/documents/20230526-430pm-2024ltp-first-stakeholder-request.pdf

The Agency's Planning and Procurement Bureau's duties and responsibilities are set forth in Section 1-75 of the IPA Act, 20 ILCS 3855/1-75. The State's "Renewable portfolio standard" ("RPS") is set forth in Section 1-75(c).

To accomplish the goal of 100% clean energy by 2050, CEJA, among other things, made changes to the volumetric requirements for REC purchases in IPA Act Section 1-75(c)(1)(E) and significantly increased Statewide annual collections for the purchase of RECs. The Agency has projected that the changes from CEJA will increase statewide collections from approximately $230 million annually under the prior version of the law to approximately $580 million annually.[2] CEJA also amended Section 16-108(k) of the PUA, 220 ILCS 5/16-108(k), to authorize prior years' collections to roll over to meet future years' REC procurement expenses, with certain defined limits.

CEJA's volumetric changes in REC purchase requirements are set forth in Section 1-75(c)(1)(B) and (C). Under Section 1-75(c)(1)(B), the former REC procurement target of "25% by 2025" has been replaced by more aggressive targets of "40% by 2030" and "50% by 2040".[3] Under Section 1-75(c)(1)(C)(i), the prior target of 8,000,000 RECs delivered annually from new wind and solar projects by 2030 is now an ambitious target of 45,000,000 RECs.

II. Concerns

To achieve the ambitious goals established by CEJA, the Agency's LTRRPPs, among other things, must balance the incentive mechanisms for achievement of rapid development of renewable energy resources with consumer interests of obtaining the appropriate value for contributions to fulfil the RPS requirements. The principal benefit of a REC is avoided emissions. Section 1-75(c) does not state a value for avoided emissions. In Section 1-75(d) of the IPA Act, however, which addresses Zero Emission Credits ("ZECs"), the statute contains a valuation method for those benefits, which is based on a federal government 2016 Social Cost of Carbon calculation of $16.50 per MWh adjusted for a discount rate and inflation, plus an inflation factor of $1 per year beginning with the 2023/2024 delivery year. 20 ILCS 3855/1-75(d-5)(1)(B)(i).

Current REC procurement results, however, are falling significantly short of the trajectory needed to achieve the State's objectives and targets. For example, as of the end of Q1 2023, the most recent completed quarter, RECs delivered to ComEd represented approximately 6% of delivery load for the 12-month period of April 1, 2022, to March 31, 2023, which is less than one-third of the 20.5% target for the 2022-2023 delivery year under Section 1-75(c)(1)(B) of the IPA Act. Over $375 million -- *i.e.*, more than half a year of ComEd's RECs procurement funding -- remained in ComEd's account to purchase RECs as of the end of Q1 2023.

RECs from utility-scale renewable energy projects in effect are required to be 70.85% of REC procurements, which is the sum of the 45% of RECs that must be from wind projects plus another 25.85% from solar projects (*i.e.*, 47% of the 55% of RECs that must be from solar projects). 20 ILCS 3855/1-75(c)(1)(C)(i). Utility-scale projects, however, have significantly

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[2] The Agency's 2022 LTRRPP, p. 18. The 2022 LTRRPP is available at: https://ipa.illinois.gov/content/dam/soi/en/web/ipa/documents/2022-long-term-plan-23-august.pdf

[3] Note that the references to years are to "delivery years". Under the IPA Act, a delivery year is defined to start on June 1 of that year and to end on May 31 of the following year. 20 ILCS 3855/1-10.

higher attrition rates (e.g. high percentage of projects receiving REC delivery contracts that do not proceed to development and contracts are terminated) than the ABP, *e.g.*, 18% for utility-scale solar RECs and 30% for utility-scale wind RECs with respect to the 2017-2019 REC forward procurements.[4] The ABP is made up of defined small and large distributed generation projects and community solar projects with payments frontloaded, rather than paid over the course of the contract as RECs are delivered.[5] The ABP attrition rates range from 1.2% to 9.8%.[6]

III. Creating Incentives to Advance Achievement of Goals

ComEd believes 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.

Subject to further discussion and analysis, and consideration of other stakeholders' ideas, ComEd suggests that the Agency consider the following high-level concepts for increasing progress on this aspect of clean energy, and thus increasing the likelihood of meeting the State's objectives and targets, subject to applicable law.

First, the Agency should consider holding larger and more frequent RECs procurements from utility-scale projects, for several reasons. Two reasons already have been noted above: the current REC procurement trajectory is very deficient, and the attrition rate for utility-scale projects is high. A third reason is that a substantial number of RECs created in Illinois currently are credited to satisfy RPS requirements in other states instead of Illinois[7].

Second, 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. ComEd notes that the federal government continues to work on updates to the Social Cost of Carbon (a/k/a the Social Cost of Greenhouse Gases), although there also has been litigation on this subject.[8]

Third, and finally, the Agency should consider taking new or enhanced steps to encourage self-compliance by eligible self-direct customers, above the RPS requirements, through the self-direct renewable portfolio compliance program provided for by Section 1-75(c)(1)(R) of the

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[4] 2022 LTRRPP, p. 73.

[5] 2022 LTRRPP, p. 81 (ABP payment terms). Payment terms for competitively procured utility-scale RECs are available at https://www.ipa-energyrfp.com/previous-rfps/.

[6] 2022 LTRRPP, pp. 73-74.

[7] Waiting Game: How the Interconnection Queue Threatens Renewable Development in PJM, NRDC Report, May 2023, p 29.

[8] On April 5, 2023, the United States Court of Appeals for the Fifth Circuit vacated a preliminary injunction issued by a federal district court to plaintiffs challenging a 2021 federal Executive Order (No. 13,990) that re-established an inter-agency working group to formulate guidance on the "social cost of greenhouse gases" and resulting "Interim Estimates", and the Fifth Circuit also dismissed the plaintiffs' underlying lawsuit for lack of jurisdiction. *State of Louisiana, et al., v. Biden, et al.*, 64 F.4th 674 (5th Cir. April 5, 2023). The time for the plaintiffs to file a petition asking the United States Supreme Court to review the case has not yet expired. 28 U.S.C. § 2101(c) (deadline of 90 days from entry of the Circuit Court's judgment, subject to an extension of up to 60 days).

IPA Act. Per information referenced in a 2023 Agency report,[9] there have been very substantial increases in procurement of electricity by end-use customers from utility-scale wind and solar projects in Illinois, for example, as of 2022, there were corporate power purchase agreements ("PPA") reflecting a total of at least 948 MW, which would reflect a potential REC market quantity of 2,648,323 RECs. Under Section 1-75(c)(1)(R)(5)(iv), the Agency must require proof, among other things, that the PPA will be sufficient to produce RECs equaling at least 40% of the volume of the customer's usage from the previous delivery year, measured to the nearest MWh, a level that is higher than the RPS' 22% target for Illinois for the 2023-2024 delivery year under Section 1-75(c)(1)(B).

ComEd appreciates the IPA's consideration of these ideas and looks forward to continuing a collaboration with the Agency and all stakeholders on the achievement of the state's policy goals.

[9] "Large Customer Self-Direct Compliance Program Proposed 2023 Delivery Year Program Size" (IPA Jan. 20, 2023), pp. 4-5 (citing other sources), available at https://ipa.illinois.gov/content/dam/soi/en/web/ipa/documents/self-direct-program-size-report-20-jan-2023.pdf