

To: Illinois Power Agency

From: Members of the Renewables Subcommittee, IL Clean Jobs Coalition

Re: Illinois Power Agency Requests Stakeholder Feedback for 2024 Long-Term Plan
Development - Chapter 5

Date: June 16, 2023

The Renewables Subcommittee was convened to help implement CEJA as envisioned by the Illinois Clean Jobs Coalition ([ICJC](#)). Our focus includes renewable programs and procurements, with a particular interest in ensuring the IPA helps facilitate the attainment of the state's renewable portfolio standards while also meeting its equity goals. The ICJC is made up of environmental advocacy organizations, businesses, community leaders, consumer advocates, environmental justice groups, and faith-based and student organizations working together to improve public health and the environment, protect consumers, and create equitable, clean jobs across the state.

The below-signed members of the Renewables Subcommittee thank the IPA for an opportunity to provide input on the Long-Term Renewable Resources Procurement Plan (LTRRPP). Please do not hesitate to contact us with questions or comments.

Signatories include:

Central Road Energy LLC

Faith in Place

Illinois Environmental Council

Sierra Club Illinois

Vote Solar

Union of Concerned Scientists

Chapter 5: Competitive Procurements

TOPIC 1: RPS Budget Rate Impact Cap

Background: The Agency's procurement of renewable energy credits ("RECs") is subject to budgetary limitations determined by IPA Act Section 1-75(c)(1)(E)'s rate impact cap. That cap that limits the annual average net increase paid per kilowatt-hour by eligible customers, thus providing a maximum renewable portfolio standard ("RPS") budget once multiplied by the prior year's retail electricity sales. Although prior years' collections can be carried over for up to five years, this capped budget appears to be an awkward fit with Indexed REC contracts featuring variable REC costs (especially given that when those costs are highest, stresses on the RPS budget from the large customer Self Direct Program and administratively-set REC prices are likely to be the greatest).

Questions

3. Contracts featuring a price collar offer more RPS budget certainty, but also carry an acute contract risk for non-payment at the strike price should wholesale energy prices be extraordinarily low or high.

b. If utilizing a price collar, how should the Agency determine the most appropriate/least costly ceiling and floor? Symmetrically or asymmetrically distributed around the strike price? Should the ceiling and floor be set as a percentage of the strike price, or perhaps as stated in a predetermined \$/MWh?

According to input provided by multiple parties after the Fall 2022 Indexed REC Procurement, ([Link](#)) and the Spring 2022 Indexed REC Procurement ([Link](#)), The risk of shortfalls in RPS budget in future years has had a significant impact on participation in procurement events. In the view of developers, the cap on the RPS budget linked to a rate impact cap creates a risk of non-payment if very low energy prices lead to high Indexed REC prices in the future. Higher than expected indexed REC prices could lead to contract payments exceeding the RPS budget, as was illustrated in multiple scenarios in the IPAs April 2023 budget update.

This risk has contributed to the significant under-procurement of indexed RECs in the first two indexed REC procurement events.

The Agency can administratively limit Seller risk by using a variety of methods, including:

- Setting a price floor: The Agency can set a price floor for RECs, which would ensure that sellers are paid a minimum price for their credits. This would reduce the risk of sellers losing money on their projects.

- Providing financial guarantees: The Agency can provide financial guarantees to sellers, which would protect them from financial losses in the event of low wholesale energy prices.
- Using a price collar: The Agency can use a price collar, which is a type of contract that limits the price that sellers can be paid for their RECs. This would reduce the risk of sellers receiving a very high price for their credits, which could lead to the Agency exceeding its budget.

Contracts featuring a price collar offer more RPS budget certainty because they limit the amount that the Agency can be required to pay for RECs. However, these contracts also carry an acute contract risk for non-payment at the strike price should wholesale energy prices be extraordinarily low.

There are a number of appropriate price collar structures that could result in more stable/predictable budget estimates for the Agency while minimizing cost/risk premiums for future participants in the IPA's procurement events. Some of these structures include:

- Asymmetric price collars: Asymmetric price collars allow for a wider range of prices for RECs on the downside than on the upside. This would reduce the risk of the Agency exceeding its budget, but it would also increase the risk of sellers receiving a lower price for their credits.
- Callable price collars: Callable price collars allow the Agency to call the contract at any time if wholesale energy prices fall below a certain level. This would protect the Agency from exceeding its budget, but it would also reduce the incentive for sellers to develop renewable energy projects.

The Agency should determine the most appropriate/least costly ceiling and floor for a price collar based on a number of factors, including:

- The level of risk that the Agency is willing to assume
- The cost of the risk premium
- The expected range of wholesale energy prices

The ceiling and floor should be symmetrically or asymmetrically distributed around the strike price depending on the level of risk that the Agency is willing to assume. If the Agency is willing to assume a higher level of risk, then the ceiling and floor can be more asymmetrically distributed. If the Agency is willing to assume a lower level of risk, then the ceiling and floor can be more symmetrically distributed.

Members of the CJC are not recommending a particular approach at this time. Rather, we suggest that the IPA present a range of options in the draft plan. In addition, we suggest that the IPA explore both options that can be administratively adopted in the context of the Plan update and if necessary propose options that would require statutory changes.

Topic 3: Collateral Requirements, Including Possible Buyer-Side Collateral

Background - To ensure that RECs under contract are delivered, the Agency requires that Sellers post collateral with contracts, with the collateral amount established as a function of contract value. The Agency believes that the level of collateral must be low enough to encourage participation, especially from small businesses and other newer market entrants, and high enough to discourage suppliers from voluntarily defaulting on contracts for economic reasons. At the same time, given non-payment risks, several participants have sought that the Agency employ Buyer-side collateral. That Buyer-side collateral could then be drawn upon should the Buyer be unable to perform if funds are unavailable under the RPS budget.

Questions

1. Are the Seller's collateral requirements from the Agency's 2022 procurement events adequate?

a. What collateral requirement changes should be included in the Agency's REC contracts going forward?

With CEJA, there are now ABP categories where RECs are "paid-as-delivered" rather than pre-paid based on a generation estimate. These are the Traditional Community Solar category and the Public Schools category. For these projects, performance assurance of 5% of the REC contract is appropriate between REC award and the approval of the Part 2 Application. However, since RECs are paid as they are delivered, there is no financial risk to the program after the project has been built. Consequently, the Performance Assurance money for these projects should be returned at the Part 2 approval.

We also learned that basing RECs on the calculated capacity factor can result in projects being unduly punished for changes to the system size or components between the Part 1 approval and Part 2 application. Rather, we feel it is reasonable to compare the RECs to be delivered as approved in the Part 1 Application to the RECs to be delivered based on the modeled generation of the Part 2 application (i.e., the system that was built) with the Agency continuing to pay the REC contract for the lesser of these two.

Topic 7: Minimum Equity Standard Requirements

Background - Pursuant to the IPA Act, the Agency shall encourage participating projects to use a diverse and equitable workforce and a diverse set of contractors. Under Section 1-75(c-10)(3) of the IPA Act, bidders in competitive procurements for RECs from new utility-scale wind, solar and brownfield site photovoltaic projects are required to participate in the Equity Accountability System.

Questions

1. How do these equity requirements impact bidders' participation in competitive procurement events?

We believe that misconceptions about the Minimum Equity Standards are suppressing bids into competitive procurement events. While it is unlikely to be a heavily weighted factor when compared to contract term concerns, RPS budget durability, and competition from more favorable deals through PPAs with corporate buyers, we believe there is a need to remedy the concerns that industry has raised.

We insist that the IPAs response should not be to loosen the standards or to dilute the effectiveness of the Minimum Equity Standards, and appreciate that this does appear to be the direction the IPA is heading in this Request for Comments. Instead, we urge the IPA to take steps to demystify the MES and to create streamlined pathways for compliance. It is likely that some potential bidders and their contractors are already in compliance with the current 10% MES but have few tools and little visibility to confirm this.

Companies need additional resources that help measure and track MES compliance. For competitive procurements, most of the work hours will be done by Engineering, Procurement, and Construction (EPC) firms. These firms and union shops already have workers on the payroll, and many of these workers might be Equity Eligible Persons (EEPs). To our knowledge, there is not currently a way for an EPC to send a survey or web form to their employees that they can take to determine if they are EEPs. There should be. This type of web form would allow a degree of privacy for employees (e.g. not having to disclose why they are EEPs) and, in the aggregate, allows an EPC to understand and advertise their percentage compliance with the MES. An EPC with 50% EEPs would be actively pursued by developers, for example, since this might unlock a bid price adjustment.

An EPC might also be trying to decide between hiring multiple candidates and have little visibility into which candidate would support their efforts toward MES compliance. The [Energy Workforce Equity Portal](#) is a considerable step in the right direction here, but it requires hiring authorities to understand that this website can be provided to candidates and used to inform hiring decisions. There should be additional tools that companies can use to vet candidates and inform them about the possibility of EEP eligibility.

4. Section 1-75(c-10)(3) directs the Agency to “develop bid application requirements and a bid evaluation methodology for ensuring that utilization of equity eligible contractors... is optimized.” In addition to requiring that bidders receiving a REC contract meet the MES and providing a bid adjustment for those that commit to exceed that MES, what other steps might the Agency take to facilitate greater utilization of Equity Eligible Contractors?

We would like the IPA to consider prioritizing mentorship of and partnership with EEC subcontractors as part of the project selection process, particularly for new and emerging contractors. The MES does not sufficiently target one of CEJA's core equity goals: wealth-building opportunities for disadvantaged persons through business ownership.

Currently, the IPA provides a bid price adjustment for companies that commit to exceeding the MES. We could imagine a similar incentive system for robust partnerships with EECs. That said, as has been referenced elsewhere in comments, we remain apprehensive about the pool of EECs living up to the spirit of CEJA and aligned with the intent of supporting disadvantaged business entities. We urge the IPA to explore ways of tightening the EEC certification process to discourage those acting in bad faith and, in the meantime, to take opportunities like this to specify the types of EECs that bidders should partner with. For example, the bid price adjustment incentive that we propose is reserved for bidders partnering with EECs that have businesses less than 3 years old.

Topic 9: Procurement Quantities and Timing

Background - The 2022 Long-Term Plan outlined a procurement schedule utilizing annual pro rata quantities for each category's 2030 RPS targets, then seeking to meet those quantities through 1-2 procurement events per year.

Questions

2. How can the IPA provide more certainty around future procurement schedules to help attract interest from parties that may seek to participate in repeat solicitations?

The current approach of 1-2 procurement events per year for competitive procurements is reasonable. This approach allows the IPA to strike a balance between ensuring a steady supply of renewable energy credits (RECs) and providing regular opportunities for developer participation.

However, it may be helpful for developers for the IPA to have a more transparent roadmap that lays out the expected procurement quantities and desired delivery beginning dates for the next five years of procurements. This would allow developers to plan their projects more effectively and to make better investment decisions.

The IPA could develop this roadmap by using historical data and market trends to estimate the amount of RECs that will be needed in the next five years. The IPA could also use this roadmap to solicit feedback from stakeholders on the best way to meet the state's renewable energy goals.

While it would be a challenge to develop a completely accurate roadmap, the IPA could still provide developers with valuable information by laying out its assumptions about the amount of RECs that will be successful in each procurement event. This would give developers a better understanding of the market and would help them to make more informed decisions about their projects.

Here are some additional thoughts on the topic:

- The IPA should consider the needs of both large and small developers when developing its procurement roadmap. We have been encouraged to see participation in the last two indexed REC procurements by 10-50 MW projects, some of which we assume are distribution or sub-transmission connected. This is a promising development, given the significant capacity that appears to be available on the sub-transmission system (see Ameren's recently published sub-transmission hosting capacity map, for example).
- The IPA should work with stakeholders to develop a procurement roadmap that is fair and transparent.
- The IPA should regularly update its procurement roadmap to reflect changes in the market and in the state's renewable energy goals.

By developing a more transparent procurement roadmap, the IPA can help to ensure that the state's renewable energy program is successful in meeting its goals while also providing certainty and predictability for stakeholders