Apex Clean Energy Response to Illinois Power Agency's Request for Stakeholder Feedback on implementation of the Illinois Climate and Equitable Jobs Act (CEJA)

Apex Clean Energy appreciates the opportunity to provide feedback on the Illinois Power Agency's (IPA) request for comments related to the implementation of the Climate and Equitable Jobs Act. As a leading clean energy company with a large portfolio of utility-scale wind, solar, and storage projects in development in Illinois, as well as a distributed generation portfolio, Apex is keenly interested in making these programs a success for the state.

Below you will find our responses to several of the IPA's questions. Although our interests extend to many areas beyond those addressed below, these are the questions where we felt our experience could provide value to the IPA as it proceeds with the next draft of its Long-Term Renewable Resource Procurement Plan (LTRRPP). Apex intends to provide additional feedback on the draft LTRRPP.

With respect to CEJA's provisions to establish a more equitable clean energy workforce, Apex has substantial interests but given the amount uncertainty in this section, we found it nearly impossible to provide valuable input on these questions at this time. Rather, we intend to provide substantive input on the IPA's draft LTRRPP on this topic. As more details emerge, we hope the IPA will take into consideration the lengthy timeline associated with development of a utility-scale renewable energy project. For example, we anticipate a disconnect between the time at which a project would respond to an IPA utility-scale REC procurement event and the time at which a project would select a Balance of Plant contractor, the former being much earlier in a project's development timeline. Said another way, in order for a project to secure the financing needed to advance into construction, the project must first secure a revenue stream (e.g. an IPA REC contract). While a project will fold the estimated construction cost into their bid response, it will be exceedingly difficult to do this without first understanding the pool of equity eligible contractors that will be available to meet a project's schedule. We believe that flexibility – particularly during the first several utility-scale procurements – is imperative for these projects and the entire RPS to be successful.

Similarly, we are withholding most comments on CEJA's Self-Direct REC provisions at this time, with the exception of two general suggestions about the program. Although Apex is an industry leader in transacting with non-utility partners, including on several utility-scale projects located in Illinois, there are too many unknowns and unique circumstances for us to offer much valuable input at this time. We anticipate that there will be key differences between this program and the traditional corporate virtual PPAs that we've used in the past. That said, regarding customer eligibility, we want to make sure that the IPA establishes a process to determine eligibility for a new customer seeking to locate a facility in Illinois (i.e. an entity that does not have any historical load data). Second, based on our experience, we would expect that customers will be unlikely to sign a fully binding PPA prior to obtaining IPA approval for participation in the Self-Direct REC program. We would encourage the IPA to allow a non-binding term sheet in a customer's application for the program, a contract which would be executed upon approval of the application. Beyond this, we look forward to providing the IPA with more substantive comments once we have a deeper understanding of the program's mechanics and the value proposition for Illinois commercial and industrial customers.

One overarching theme Apex would like to convey to the IPA at this time is the reality of competition in the Illinois market today. We believe the IPA will encounter a scarcity of utility-scale renewable energy projects that have a clear path to interconnection and securing local *building permits. PJM's ongoing queue reform process will exacerbate this problem, because, once enacted, we anticipate a dramatic slowdown in new queue entrants while the queue backlog is cleared. Moreover, PJM has told stakeholders to expect a "lengthy transition period" to their new, reformed queue process. This will mean fewer available projects in the PJM region in the latter part of this decade. Even with the dramatic improvements to the state's Renewable Portfolio Standard included in CEJA, the state will still be competing with corporate customers for this finite number of viable projects. Recognizing the need to meet near-term sustainability targets, corporate customers are allowing greater flexibility than ever to project developers and it is critical that the IPA design their procurements to ensure its long-term REC contracts remain an attractive option.*

High Level RPS Questions

#3 Given the recent changes to Section 1-75(c)(1)(E) of the IPA Act and Section 16-108(k) of the Public Utilities Act, is that buffer still appropriate? How should the Agency consider REC delivery contracts now featuring floating, indexed REC prices in determining the appropriate buffer margin?

We believe a 5% buffer, or roughly $30M annually, is excessive. Although indexed REC contracts will inherently be more variable than fixed-price REC contracts, the statutory requirement to utilize an industry-standard, third-party forward price curve will ensure budgets remain predictable and allow the IPA to estimate its maximum exposure. Although we support full transparency with respect to the status of the RPS budget (see #4 below), the goal of CEJA is to encourage substantially more renewable energy to be built in Illinois and withholding upwards of $30M annually will not achieve this goal.

#4 How can the Agency provide more useful and informative updates to stakeholders about the status of RPS collections and expenditures?

Considering recent budgetary constraints with the RPS, which caused significant concern in the project finance community, we encourage the IPA to provide more regular updates on the status of RPS collections and expenditures. Following the IPA's December 2020 RPS budget shortfall announcement, the Agency provided stakeholders with several updates over the subsequent months, which proved quite helpful. Going forward, updates could be provided semi-annually or following each procurement to ensure that all parties involved, particularly those in the project finance sector, can make informed decisions and assess risk of future funding shortfalls.

Utility Scale Procurements

#1 Are annual procurements sufficient, or should procurements be more frequent? If procurements are conducted annually, is there a time of year that would be best to hold them?

As long as there is some degree of flexibility in project bid requirements that allow projects at slightly different stages of development to enter the procurement process, we believe annual procurements are sufficient. We are generally indifferent to the time of the year that a procurement event is held, but would encourage the IPA to maintain a consistent schedule (e.g. a utility-scale wind procurement event every Spring until the statutory goal is satisfied).

[redacted]

#2 What would be the most effective way to create that optimization? For example, the approach used for prioritizing RECs from Illinois and adjacent states prior to the enactment of the Future Energy Jobs Act could be used. In that approach, bid evaluation would first select projects (subject to the application of the confidential price benchmark) from those areas, then if volumes to be procured remain, would select bids from projects in other areas. Another approach could be to have different eligibility requirements for projects located in these areas. Another approach still could weight price versus other requirements.

[redacted]

#4 How should the Agency balance seeking to receive RECs as quickly as possible to meet aggressive RPS targets, and adjusting procurement volumes to account for project attrition, with allowing developers needed time for project development? Should midstream milestones or increases in collateral requirements be considered as a means

to ensure that selected projects are indeed on track for development? What lessons can be taken away from development delays extending from the COVID-19 pandemic?

Apex would generally discourage the IPA from instituting any new increases in collateral requirements for the reasons listed in our response to #1. Rather, midstream/interim milestones or targets for selected projects are a practical way to ensure projects remain on track for initial REC delivery. These milestones could include demonstration of increasing levels of site control, updates on MISO/PJM interconnection queue study, local permitting advancements, or other measures of continued investment that demonstrate the ongoing commitment of the project developer.

#7 With both MISO and PJM using 5-minute real-time settlements, is a five-minute settlement period practical for the IPA to use, considering that the IPA would also have to request that bidders submit their strike prices in 5-minute periods? If a 5-minute period is not practical, what period would you consider a reasonable settlement period?

The settlement period used should not impact the indexed REC strike price. Bidders will submit one indexed REC strike price when the IPA does its procurement. That is the strike price that will be used to determine the payments to the project, regardless of calculation interval or settlement period.

Apex would recommend a construct like a VPPA. There would be a set calculation interval (which could be 5-minute or hourly) that is used to determine the payment amount based on the market price. The calculation intervals are typically summed up over a longer period (such as monthly) and the contract settles each month.

#8 What types of price collars (floor and ceiling) should the IPA consider, to ensure that Indexed REC prices remain predictable and affordable?

Apex would recommend that the IPA does not institute a price collar or price floor because it will make financing the renewable projects challenging. When evaluating a project, a bank will assume the "worst case" scenario, so the floor/collar will be used in lieu of the actual strike price and hinder a project's financeability.

The statutory requirement to utilize an industry-standard, third-party forward price curve should help ensure the IPA can estimate the cost of paying out indexed REC contracts by providing an outlook on wholesale energy prices.