July 19, 2022

Brian Granahan
Illinois Power Agency
105 West Madison Street
Suite 1401
Chicago, IL 60602

Dear Mr. Granahan,

EDP Renewables North America, LLC (EDPR) is writing in response to the IPA's Request for Feedback on its Indexed REC Procurement Request for Stakeholder Feedback. EDPR chose not to participate in the 2022 IPA RFP process because of the unquantifiable risks associated with the non-negotiable contract form. In the interest of encouraging further improvement to the contract and procurement process, we wanted to share our most significant concerns. The comments below specifically address Questions 2, 6, and 7 in the Indexed REC Procurement Request for Stakeholder Feedback.

EDPR is the 4th largest operator of wind energy in North America with operational assets totaling more than 8 GW including 58 wind farms and 9 solar parks. EDPR's parent company, EDP Renewables, is a global leader in the renewable energy sector active in 26 markets across Europe, Latin America, North America, and Asia. EDPR finances development, permitting and construction with equity, both self-generated or provided by its parent company. EDPR also utilizes tax equity financing with closings occurring on or around project commercial operation date. EDPR has successfully entered into tax equity partnerships with large financial institutions, raising approximately $7 billion since 2007.

In Illinois, EDPR has invested approximately $2.3 Billion in 1,201 MW of operating renewable energy facilities. These include the Harvest Ridge Wind Farm, which was awarded contracts for RECs through the 2017 IPA procurement event, and the Top Crop Wind Farm which was awarded a contract as a part of the 2010 procurement event. EDPR also successfully won IPA contracts for portions of its Indiana wind farms, Meadow Lake 1-4. EDPR currently has a number of advanced developments in Illinois, including two solar projects totaling 250 MW with executed interconnection agreements. Both projects are targeting commercial operation by the end of 2024. While we hoped to bid these projects in the 2022 Indexed REC Procurement, we ultimately decided not to because of the significant financial risks in the nonnegotiable contract.

In response to Question 2, we believe the most problematic provision in the 2022 Master Renewable Energy Credit (REC) Purchase and Sale Agreement is Section 5.4 (Cost Recovery through Pass-Through Tariffs). This section allows utilities to stop paying for RECs if they cannot

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recover such costs from customers through the pass-through tariff. This contractual feature is extremely problematic because there is no guarantee that the IPA will collect enough money from Illinois utilities to pay for its utility-scale REC contracts. If power prices drop for several years in a row, it is possible that the IPA would not have collected enough money to support its utility scale REC contracts. Unsurprisingly, an extended low-price environment is also a scenario in which being able to rely on buyers honoring an agreement is most critical for a project. While this may seem like a doomsday scenario, it directly impacts a project's ability to achieve completion since the financial entities that fund development and construction activities consider this possibility a significant risk to the investment. Therefore, the possibility of future nonpayment for RECs will make these projects very difficult, and unnecessarily expensive, to finance. EDPR's firsthand experience at Harvest Ridge confirmed that this threat of non-payment was considered significant to financiers. EDPR was able to overcome this risk with Harvest Ridge by selling only part of the project's RECs to Illinois utilities and leveraging financing through stronger energy and REC contracts for the remaining power. This structure has been made even more difficult in the new REC contracts, where multiple off-takers are no longer allowed as discussed below. With the otherwise improved indexed-REC contracts, hedges for the brown power produced by a project are no longer possible.

In response to Question 6, we do not believe Public Act 102-0662 adequately mitigates this non-payment risk because the current RPS collection is based on historical REC costs and not projected I-REC prices. The existing pricing mechanism does not adequately account for the various market trends, statutory changes, and supply chain issues that could, and recently have, driven up prices. Our strong recommendation is to remove this contract provision and ensure that Illinois' utilities pay for the RECs that they have committed to purchase at the price awarded by the IPA, for the life of the contract. If the IPA feels they need a statutory change to allow this provision of the contract to be removed, then we would encourage their recommendation to be provided to the legislature.

There are additional changes to the contract that could be made to partially ameliorate (but not eliminate) this concern. The adoption of a "buyer's fraction"-style contractual structure facilitating multiple off-takers would allow the Bidder to specify a fraction of a project's output that would be dedicated to the IPA's buyers, enabling a Bidder to limit a project's exposure to non-payment risk. Unfortunately, this structure was denounced on IPA's March 22, 2022 webinar, when the moderators confirmed the IPA's contract was explicitly designed for the Illinois utilities to be the sole off-takers of project RECs. We urge the IPA to consider allowing multiple offtakers to increase project participation.

Moving to a "buyer's fraction"-style contract also would address our second largest concern with this contract structure: that it requires a fixed annual quantity obligation (Section 1.5 – Annual Quantity). Fixed-quantity REC obligations are common commodity contract instruments that EDPR uses frequently as a portfolio-wide hedge; however, they are not appropriate or attractive for a single development asset. Given the variability of a renewable energy project's

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fuel, a bidder must choose to either (A) bid in an aggressively optimistic fixed quantity (and run an ever-increasing risk of default for continual under-delivery) or (B) bid in a good-faith estimate and face an ever-shifting annual date after which the contract ceases to settle and after which the project is thereafter exposed to the merchant market. Given that the IPA's identified buyers are intended to be the primary (and – per the contract's terms – 'first position') off-taker for the project as discussed above, the annual and ever-shifting 'merchant tail' is also impossible to hedge with a third party. This arrangement means neither the buyer nor the seller can accurately plan for the true weighted average value of its generation, and thus the seller cannot confidently provide a fixed index price to the IPA to support its fifteen-year bid without a significant risk premium to compensate for this uncertainty. This premium makes projects more expensive, and summarily further exacerbates the risk related to budget-driven non-payment as described in our first issue.

Our ideal solution, an extremely common structure employed successfully by thousands of projects, is to convert the contract to an as-generated contract wherein the buyers take a "buyer's fraction" between 1-100% of all electricity generated by the project during the delivery term. Every large load-serving entity is familiar with contracts that use this approach. There is no downside to the IPA, Illinois' utilities, or most importantly, Illinois' ratepayers, to this approach.

As a secondary, less preferred suggestion, we would urge the IPA to look to previously-executed IPA contract structures used for the IPA's December 2010 long-term bundled renewable resources procurement event, wherein fixed annual quantity obligations were augmented with the ability at Seller's discretion to either cease delivery or to continue delivering against future years' commitments.

Finally, to address Question 7, volatility in the market did contribute to EDPRs decision to abstain from this procurement round. Uncertainty around commodity pricing, panel pricing, panel tariffs, and federal tax treatment all contribute to added risk to REC PPAs. These risks can be unsurmountable with buyers who are not flexible enough to be able to negotiate solutions in contracts that account for these changing market conditions. Again, it could be possible to increase a sellers price to account for some of this uncertainty, in addition to the uncertainty from Section 5.4 of the contract. However, such price increases would no doubt increase a project's bid price higher than the confidential benchmark developed by the IPA. We recommend the IPA either (1) eliminate the confidential benchmark all together, (2) develop the benchmark but make it public so that developers can understand the value that the IPA is attributing to these added risks, or (3) that the IPA develop a benchmark and use it as a criteria for evaluation, but not as a criteria for elimination of bids.

EDPR will continue to evaluate opportunities to bring clean and competitively-priced energy to customers in the State of Illinois, particularly through commercial and industrial customers who have their own sustainability goals and are not limited by the IPA's regulatory structure. EDPR

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currently does not consider the IPA's 2022 RFP to be a viable pathway to further our growth in the state. We hope that improvements can be made to future IPA-led procurements, and we commit to continue to work collaboratively with the IPA and its stakeholders to build a structure that effectively and efficiently unlocks Illinois' renewable energy potential.

Sincerely,

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