COMMENTS OF THE RENEWABLES SUPPLIERS
ON THE ILLINOIS POWER AGENCY'S
DRAFT 2016 ELECTRICITY PROCUREMENT PLAN

I. Introduction

These comments on the Illinois Power Agency's ("IPA") draft 2016 Electricity Procurement Plan ("Draft Plan") are submitted by the following companies (collectively, the "Renewables Suppliers"):

- Invenergy LLC and its affiliated project companies Grand Ridge Energy IV LLC and Invenergy Illinois Solar I LLC.
- NextEra Energy Resources, LLC and its subsidiary project company FPL Energy Illinois Wind, LLC.

Each of the project companies holds a long-term power purchase agreement ("LTPPA") with Commonwealth Edison Company ("ComEd") to supply electricity from renewable resources bundled with the associated renewable energy credits ("RECs"). The Renewables Suppliers actively participated in the Commission proceeding concerning the IPA's 2014 Procurement Plan, Docket 13-0546, including the rehearing in that docket, and in the Commission proceeding concerning the IPA's 2015 Procurement Plan, Docket 14-0588.

The Renewables Suppliers have comments on the Draft Plan in the following areas:

1. The Draft Plan shows that there is a significant margin between ComEd's (and Ameren Illinois') forecasted eligible retail customer load for the 2016-2017 Plan Year, and the levels to which the electric utilities' eligible retail customer load would have to fall for a curtailment of purchases under the LTPPAs to be necessary in order to remain within the Renewable Portfolio Standard rate caps.[1] *See* Tables 8-4 (Ameren Illinois) and 8-5 (ComEd) on page 127 of the Draft Plan. However, the Draft Plan continues to recommend (as in the Plans for several recent years) that the Commission, in its order to be issued in December 2015 on the proposed Procurement Plan, "pre-approve" curtailments of the LTPPAs if the electric utilities' March 2016 load forecast updates show curtailments to be necessary. Draft Plan at page 6 (Action Plan item no. 8).

In light of the significant margin between the electric utilities' load forecasts for the 2016-2017 Plan Year and the levels of load at which LTPPA curtailments would be necessary, Action Plan item no. 8 in the Draft Plan should be changed to a recommendation that the Commission find, in its December 2015 order on the Procurement Plan, that <u>no</u> LTPPA curtailments will be required for the 2016-2017 Plan Year.

Alternatively, Action Plan item no. 8 should be changed to a recommendation to the Commission that if the electric utilities' filed March 2016 load forecast updates indicate a need for LTPPA curtailments, then the Renewables Suppliers, other LTPPA suppliers, and other stakeholders, be allowed to review the load forecast updates and submit comments to the Commission, before the Commission makes a final determination as to a need for LTPPA

[1] The 2016-2017 Plan Year as used in these Comments refers to the 12-month period from June 1, 2016 to May 31, 2017.

curtailments. The Renewables Suppliers made a similar recommendation in connection with a previous year's procurement plan, and it was not adopted. However, the circumstances here are different, in that it would take *significant* changes in the electric utilities' load forecasts – particularly in ComEd's load forecast – between July 2015 and March 2016 in order for the electric utilities' eligible retail customer load to fall to levels at which LTPPA curtailments would be indicated. In other words, the March 2016 load forecast "updates" would have to be materially different from the current (July 2015) load forecasts for LTPPA curtailments to be indicated. Given the significant changes in the electric utilities' load forecasts that would have to occur between July 2015 and March 2016 (8 months) in order for LTPPA curtailments to be indicated, and the resulting potential adverse consequences for LTPPA suppliers, the Renewables Suppliers and other LTPPA suppliers should be allowed to review and comment on the March 2016 load forecast updates before they are accepted as the basis for ordering LTPPA curtailments.

To implement this proposal, the electric utilities should be required to file their March 2016 load forecast updates in the docket for the 2016 Procurement Plan, with an explanation of the reasons for changes from the July 2015 load forecasts, and interested parties should be given 14 days to file comments in the docket on the updated load forecasts.

Stated differently, the Commission should not simply "pre-approve" LTPPA curtailments if shown to be needed by the electric utilities' March 2016 load forecast updates, given the very significant changes in the load forecasts that would have to occur for curtailments to be indicated, without the LTPPA Suppliers and other interested parties having the opportunity to submit comments on the revised, March 2016 load forecasts.

2. The Draft Plan proposes a Fall 2016 procurement event to purchase Renewable Energy Credits ("RECs") from Distributed Generation ("DG") resources for ComEd and Ameren Illinois, using the electric utilities' Alternative Compliance Payments accumulated in respect of their sales to customers served on hourly pricing tariffs ("Hourly ACP funds"). Draft Plan at 6 (Action Plan item no. 10) and 128.

While the Renewables Suppliers do not object in principle to the planned Fall 2016 procurement of DG RECs, the IPA Plan should be revised as necessary to make it clear that the IPA will not proceed with the DG REC procurement for an electric utility unless and until (1) it is determined that there will be no LTPPA curtailment for the electric utility for the 2016-2017 Plan Year (whether this is determined by the Commission in its December 2015 order on the 2016 Plan, as recommended above, or is determined on the basis of the March 2016 load forecast updates), and/or (2) the IPA has determined that the electric utility whose LTPPAs are curtailed has a sufficient balance of Hourly ACP funds to purchase the LTPPA suppliers' curtailed RECs, using the pricing formula approved by the Commission in the Order on Rehearing in Docket 13-0456, and electric utility's the procurement of DG RECs will be funded only from any balance of its Hourly ACP funds in excess of the amount needed to purchase the curtailed LTPPA RECs.

The Renewables Suppliers believe the foregoing to be the IPA's intent, as it was in the 2015 Procurement Plan. The Renewables Suppliers also note that the Draft Plan recommends that, in the event of a LTPPA curtailment, the pricing formula approved in the Docket 13-0456 Rehearing Order be used for the purchase of curtailed LTPPA RECs using the electric utility's Hourly ACP funds. Draft Plan at 127. However, the Draft Plan can and should be clarified to specify that purchase of any curtailed LTPPA RECs shall be the first use of the electric utility's Hourly ACP funds, before these funds are used for a Fall 2016 DG REC procurement.

This clarification can be provided by adding the following sentence to Action Plan item no. 10 on page 6 of the Draft Plan: "However, this procurement shall be conducted only to the extent that it can be funded from the electric utility's hourly ACP funds that are not needed to purchase curtailed RECs from the counterparties to the long–term bundled renewable resources contracts using the pricing formula for the purchase of curtailed RECs approved by the Commission in the Order on Rehearing in Docket 13-0456."

3. The Draft Plan shows that for each of the Delivery Years 2017-2018 through 2020-2021, ComEd is projected to have a shortfall between presently-contracted renewable resources and its RPS targets for total renewable resources, renewable resources from wind, and renewable resources from photovoltaics. The shortfall is 536,862 MWh for wind and 113,769 MWh for photovoltaics in 2017-2018, and the shortfall increases to 1,608,267 MWh for wind and 199,481 MWh for photovoltaics in 2020-2021. (Table 8-2 on page 125.) Similarly, for the Delivery Year 2017-2018, Ameren Illinois is projected to have a shortfall between presently-contracted renewable resources and its RPS targets for total renewable resources and renewable resources from photovoltaics; and for Delivery Years 2018-2019, 2019-2020, and 2020-2021, Ameren Illinois is projected to have a shortfall between presently-contracted renewable resources and its RPS targets for total renewable resources, renewable resources from wind, and renewable resources from photovoltaics. The shortfall reaches 328,241 MWh for wind and 70,556 MWh for photovoltaics in 2020-2021. (Table 8-1 on page 124.) These increasing shortfalls between presently-contracted renewable resources and the RPS targets reflect, in part, that the RPS percentages specified by §1-75 of the IPA Act continue to increase through the year 2025. However, the Draft Plan indicates that the IPA does not plan any procurement activity during 2016-2017 to address these shortfalls; the Summary of Procurement Plan Recommendations on Table 1-5 (page 4) states "revisit next year" for the indicated shortfalls in renewable resources.

The Renewables Suppliers strongly believe that in order to promote the further development of renewable generating resources serving the State of Illinois, it will be necessary for the IPA to conduct more long-term renewable resources procurements, since many developers require and use long-term off-take agreements in order to finance the construction of new wind and solar generation facilities. The Renewable Suppliers recognize, however, that the stability of the electric utilities' eligible retail customer load has been an issue over the past two to three years, due primarily to the migration of customers from the utilities to alternative retail electric suppliers as a result of the initiation and subsequent reduction in municipal aggregation programs and the differences (both positive and negative) between market electricity prices and the electric utilities' price offerings to their eligible retail customers. Given instability in the size of ComEd's and Ameren's eligible retail customer loads subject to RPS requirements over the last two to three years, the Renewables Suppliers recognize that conducting a procurement event for new long-term renewable resources supply during the 2016-2017 Plan Year may be premature. To determine that the levels of the electric utilities' eligible retail customer loads subject to the RPS have stabilized, another one to two years of experience may be appropriate before the IPA begins conducting procurement events for long-term renewable resources contracts. Additionally, there are at least two bills pending in the General Assembly that would make significant revisions to the current statutory RPS provisions, and it may be wise to refrain from further long-term renewable resources procurements until the outcome of these proposals is determined.

Nonetheless, the Renewables Suppliers recommend that the Draft Plan be modified to add an item to the Action Plan to conduct limited procurements of wind and photovoltaic RECs, under relatively short-term contracts, during 2016-2017, to address a portion of the indicated shortfalls in renewable resources for ComEd and Ameren Illinois for the 2017-2018 through 2020-2021 Delivery Years. By "short-term," the Renewables Suppliers mean REC procurements under contracts of one year to no more than five years. Conducting short-term REC procurements in 2016-2017 would generate some activity in the markets for wind and photovoltaic RECs, which has been generally lacking during the past several years.[2]

However, given the lingering uncertainty over the stability of the electric utilities' eligible retail customer loads, the Renewables Suppliers believe it would be prudent and appropriate to conduct REC procurement events in 2016-2017 to cover only a portion of the indicated shortfalls in years 2 through 5 of the forecast period. Further, given that greater certainty can be assigned to the electric utilities' load forecasts for the 2017-2018 Delivery Year than for the subsequent three Delivery Years, these REC procurements should cover a decreasing portion of the indicated shortfall in each of years 2 through 5 of the forecast period. The portion of the forecasted annual shortfalls to be procured should be based on the electric utilities' available Renewable Resources Budgets ("RRB"), as this approach should minimize the risk of the statutory RPS rate caps being exceeded in years 2 through 5. Additionally, these proposed short term REC procurement contracts should specify that REC purchases are also subject to available funding under the RRB as determined by the final load forecast or load forecast "update" for the respective Delivery Year. Finally, LTPPA deliveries and payments must be considered senior to the delivery and payment for RECs procured under the short term REC contracts. In other words, in the case of future unavailability of RRB funds to pay for all contracted renewable energy resources, which leads to curtailments (a risk that is minimized by the proposed short-term nature of the REC contracts and the limitation on the RRB that can be spent on the REC procurements, as Renewables Suppliers are proposing), the short-term REC contracts would be the first to be curtailed.

Tables 8-4 and 8-5 on page 127 of the Draft Plan show that Ameren and ComEd are projected to have the following Available RPS Funds (*i.e.*, the Delivery Year RPS Budget less the cost of Contracted RECs for the Delivery Year) for Delivery Years 2017-2018 through 2020-2021:

Delivery Year	Ameren Illinois ($)	ComEd ($)
2017-2018	3,255,883	16,916,581
2018-2019	4,721,183	17,524,528
2019-2020	4,769,585	17,687,604
2020-2021	5,015,585	18,101,144

The Renewables Suppliers recommend that the Draft Plan be modified to provide for short-term REC procurement events during the 2016-2017 Plan Year to procure RECs for the

[2] Although the accumulated balance in the IPA's Renewable Energy Resources Fund ("RERF"), into which Alternative Compliance Payments by Alternative Retail Electric Suppliers are deposited, has become quite large, it is the Renewables Suppliers' understanding that the RERF funds have been "borrowed" for General Revenue Fund purposes, due to the State's current budget difficulties, and thus the borrowed amounts will not be available to fund REC purchases by the IPA until such amounts are repaid from the General Revenue Fund. Thus, REC purchases using the RERF funds will likely not be available as a source of market activity in the near term. This situation provides an additional reason why short-term REC procurements for the electric utilities' 2017-2018 to 2020-2021 renewable resources shortfalls should be conducted during the 2016-2017 Plan Year.

electric utilities' RPS requirements for Delivery Years 2017-2018 through 2020-2021, in amounts equal to the following percentages of the electric utilities' forecasted Available RPS Funds in those Delivery Years:

Delivery Year 2017-2018: 30%

Delivery Year 2018-2019: 25%

Delivery Year 2019-2020: 20%

Delivery Year 2020-2021: 10%

Respectfully submitted,

RENEWABLES SUPPLIERS

By: /s/ Owen E. MacBride
Owen E. MacBride

Schiff Hardin LLP
233 South Wacker Drive, Suite 6600
Chicago, IL 60606
(312) 258-5680
omacbride@schiffhardin.com

Representatives of the Renewables Suppliers:

Julie Voeck Director Regulatory and Legislative Affairs NextEra Energy Resources, LLC 700 Universe Blvd. FEB/JB Juno Beach, FL 33408 (414) 475-1035 Julie.voeck@nexteraenergy.com	Craig Gordon Vice President of Sales and Marketing Invenergy LLC One South Wacker Drive, Suite 1900 Chicago, IL 60606 (312) 582-1467 cgordon@invenergyllc.com