

Hello,

Attached are my comments and suggested edits to the draft REC Contract amendments.

I have tried to focus only on technical coherence rather than any policy judgments. My edits & comments are similar for both the ABP and non-ABP contract amendments, although there are some additional points for the ABP contract.

Disclaimers: I am writing strictly as a concerned individual. In my professional legal work, I represent certain Illinois nonprofit entities in a federal environmental law matter outside Illinois.

Thank you!
Concerned Individual

July 2021 DRAFT PAYMENT DEFERRAL CONTRACT AMENDMENTS
(MS Word version provided to facilitate submission of stakeholder comments)

July 30, 2021

A draft amendment to the REC Contract related to the Adjustable Block Program (“ABP”) is provided in **Appendix A**.

A draft amendment to the REC Contract related to the following procurements is provided in **Appendix B**:

- a. Fall 2017 Wind and Solar RFP (Commission Bid Approval Date: 7 September 2017)
- b. Spring 2018 New Solar RFP (Commission Bid Approval Date: 21 March 2018)
- c. Spring 2018 Second New Solar RFP (Commission Bid Approval Date: 2 May 2018)
- d. Fall 2018 Utility-Scale Wind RFP (Commission Bid Approval Date: 10 October 2018)
- e. Fall 2018 Utility-Scale Solar RFP (Commission Bid Approval Date: 4 December 2018)
- f. Summer 2019 Brownfield Site PV RFP (Commission Bid Approval Date: 1 August 2019)

APPENDIX A

**ADJUSTABLE BLOCK PROGRAM
DRAFT REC CONTRACT
AMENDMENT**

AMENDMENT TO RENEWABLE ENERGY CREDIT AGREEMENT

THIS AMENDMENT TO RENEWABLE ENERGY CREDIT AGREEMENT (the "Amendment") is entered into this 31st day of December, 2021 (the "Effective Date"), by and between _____ ("Seller" or "Party A") and [Ameren Illinois Company d/b/a Ameren Illinois / Commonwealth Edison Company / MidAmerican Energy Company] ("Buyer" or "Party B"). Each of Seller and Buyer is sometimes referred to herein as a "Party" or collectively as the "Parties."

RECITALS:

WHEREAS, Buyer and Seller entered into a Renewable Energy Credit Agreement (the "REC Contract") with an Effective Date of [-], 20[-];

WHEREAS, the REC Contract is subject to and governed by all the terms and conditions of the agreement entitled "Master Renewable Energy Certificate Purchase and Sale Agreement" attached thereto as Exhibit J (the "Master REC Agreement") and such terms, as modified by the REC Contract, are incorporated by reference in the REC Contract (capitalized terms used and not otherwise defined in this Amendment shall have the same meaning as in the Master REC Agreement, as modified by the REC Contract);

WHEREAS, Section 9.5(c) of the Master REC Agreement provides that amendments thereto shall be in writing and executed by both Parties;

WHEREAS, the Illinois Commerce Commission in ICC Docket No. 19-0995 (Order on Reopening dated the 27th day of May, 2021) (the "Commission Order") has approved the IPA's Revised Long Term Renewable Resources Procurement Plan as modified by the Commission Order wherein it provides for the modification of the REC Contract to allow for certain payments by Buyer to Seller for obligations incurred during the period June 1, 2021 through May 31, 2022 to be deferred; and

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual agreements contained in this Amendment and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Section 13(b) of the Cover Sheet is amended to include the following additions:
 - a. The following is added as Section 1.75.1:

““Deferred Payment Amount” means the amount specified as such in Seller’s invoice due on March 10, 2022 or June 10, 2022, the calculation of which is set forth in Section 2.2.1 and as such amount may be adjusted pursuant to any IPA True-up Adjustment as set forth in Section 2.2.1 and as such amount is payable as set forth in Section 2.2.1. Any Deferred Payment Amount so adjusted by an IPA True-up Adjustment shall be an Adjusted Deferred Payment Amount.”
 - b. The following is added as Section 1.75.2:

““[AIC/ComEd/MEC] ABP Deferral Percentage” means the percentage specified as such in the IPA Deferred Payment Calculation Notice.
 - c. The following is added as Section 1.75.3:

““IPA Deferred Payment Calculation Notice” means the notice posted to the IPA’s Website related to the available budget and projected expenditure on renewable resources, including information on the [AIC/ComEd/MEC] ABP Deferral Percentage applicable to an upcoming Invoicing Month (except for the June 25, 2022 IPA Deferred Payment Calculation Notice, which shall include information applicable to the June 2022 Invoicing Month as described in Sections 1.75.4 and 2.2.1), and for which a copy will be issued by the IPA to both Buyer and Seller on or before the 25th of each month starting January 25, 2022 through June 25, 2022.

d. The following is added as Section 1.75.4:

““IPA True-up Adjustment” means an adjustment of any Reduced Invoice Amount specified in the invoice due on June 10, 2022. The IPA True-up Adjustment shall be calculated by applying an adjustment rate specified in the IPA Deferred Payment Calculation Notice issued by the IPA to Buyer and Seller on or before June 25, 2022, and as further described in Section 2.2.1.

e. The following is added as Section 1.75.5:

““Invoicing Month” means a calendar month within the period February 1, 2022 through June 30, 2022 in which invoices are due and submitted to Buyer (namely, either March 2022 or June 2022) and for which a [AIC/ComEd/MEC] ABP Deferral Percentage is associated with.

f. The following is added as Section 1.75.6:

““Reduced Invoice Amount” means the amount specified as such in Seller’s invoice due on March 10, 2022 or June 10, 2022, the calculation of which is set forth in Section 2.2.1 and as such amount may be adjusted pursuant to any IPA True-up Adjustment as set forth in Section 2.2.1 and as such amount is payable as set forth in Section 2.2.1. Any Reduced Invoice Amount so adjusted by an IPA True-up Adjustment shall be an Adjusted Reduced Invoice Amount.”

2. Section 2.2 of the Master REC Agreement, as modified by Section 13(c) of the Cover Sheet, is further amended by adding the following at the end of the section:

“Notwithstanding the foregoing, and for avoidance of doubt, this Section 2.2- is subject to Section 2.2.1 and Section 2.2.2.”

3. Section 13(c) of the Cover Sheet is amended to include the following addition:

a. “The following is added as Section 2.2.1:

Notwithstanding Section 2.2 above, this Section 2.2.1 shall govern payment and invoicing requirements for the invoices due on March 10, 2022 and June 10, 2022. For each such invoice, Seller shall render to the Buyer an invoice by electronic mail for the payment obligations of Buyer to Seller by the applicable Invoice Due Date if there are amounts eligible for payment by Buyer to Seller for such Invoicing Month.

All invoices due on March 10, 2022 and June 10, 2022 are subject to payment deferral by Buyer. For purposes of the payment deferral, Seller shall indicate on the invoice (in

Commented [A1]: Regarding "applicable to an upcoming Invoicing Month": Is the idea that the Jan 25, 2022 IPADPCN will include a forecast of the ABP Deferral Percentage applicable to the March 2022 Invoicing Month, and then the Feb 25, 2022 IPADPCN will update that ABP Deferral Percentage for March's invoices? And then the Mar 25 and Apr 25 IPADPCNs will include forecasts of the ABP Deferral Percentage for the June 2022 Invoicing Month, and then the May 25 IPADPCN will have a final actual ABP Deferral Percentage for June's invoices? If all that is the intent (or if something else is the intent), it could be made a little clearer here.

Commented [A2]: What baseline value does the adjustment rate apply to in order to arrive at the IPATUA: is it the June 10 Deferred Payment Amount, or the cumulative sum of Deferred Payment Amounts, or something like that?

Commented [A3]: I'm assuming that the Adjusted Reduced Invoice Amount is still payable on June 30 or July 29 (as applicable); I flag that issue in my other comment below. But with that assumption (which could be wrong) in mind, I offer this comment: June 25, 2022 is a Saturday. If the IPATUA is announced on Friday, June 24 and Seller updates its invoice on Monday, June 27, does that give enough time for Buyer to pay the Adjusted Reduced Invoice Amount on Thursday, June 30? Very likely these issues have already been explored... but I just wanted to mention it!

addition to the requirements set forth in Section 2.2): (a) the Reduced Invoice Amount and (b) the Deferred Payment Amount.

The Reduced Invoice Amount in the invoice, timely submitted, under this Agreement shall be payable and due on the last Business Day of the month in which such invoice is rendered or the last Business Day of the following month if the payment is the first payment made under this Agreement; and the Deferred Payment Amount in the invoice shall be payable and due on the last Business Day of September 2022.

For avoidance of doubt, if Seller fails to render an invoice by the Invoice Due Date, no payment will be processed for that Quarterly Period. For any amounts associated with late invoices, those amounts shall be eligible to be included in the following Quarterly Period's invoice for subsequent payment. However, all invoices submitted in an Invoicing Month shall be subject to the [ComEd/AIC/MEC] ABP Deferral Percentage applicable to that Invoicing Month.

All Seller's invoices must be accompanied by the latest Quarterly Netting Statement issued to Seller by the IPA and the Reduced Invoice Amount shall not cause the payment to be made to cumulatively exceed the Maximum Allowable Payment specified in such Quarterly Netting Statement less the sum of Deferred Payment Amounts in the invoice submitted and in any prior invoices. For avoidance of doubt, the Deferred Payment Amount, with respect to an invoice, shall be the amount equal to the multiplicative product of (x) the [ComEd/AIC/MEC] ABP Deferral Percentage applicable to that Invoicing Month and (y) the result obtained by subtracting (1) the sum of: cumulative payments previously made under this Agreement and any prior Deferred Payment Amounts from (2) the Maximum Allowable Payment specified in such latest Quarterly Netting Statement. For avoidance of doubt, the Reduced Invoice Amount, with respect to an invoice, shall be the amount equal to the difference between (xx) the sum of the Deferred Payment Amount in the invoice and any prior Deferred Payment Amounts and (yy) the result obtained by subtracting the cumulative payments previously made under this Agreement from the Maximum Allowable Payment specified in such latest Quarterly Netting Statement.

Notwithstanding the foregoing in this Section 2.2.1, the Reduced Invoice Amount in the invoice due on June 10, 2022 shall be further subject to an IPA True-up Adjustment. The IPA True-up Adjustment could either increase the Reduced Invoice Amount or reduce the Reduced Invoice Amount. If the IPA True-up Adjustment amount increases the Reduced Invoice Amount, then the Deferred Payment Amount shall be reduced by the IPA True-up Adjustment amount. If the IPA True-up Adjustment amount reduces the Reduced Invoice Amount, then the Deferred Payment Amount shall be increased by the IPA True-up Adjustment amount. The Reduced Invoice Amount and the Deferred Payment Amount after the application of the IPA True-up Adjustment is the Adjusted Reduced Invoice Amount and the Adjusted Deferred Payment Amount, respectively. For avoidance of doubt, the IPA True-up Adjustment amount that increases the Reduced Invoice Amount could be greater than the Deferred Payment Amount, in which case shall result in a negative Adjusted Deferred Payment Amount, which shall be netted against all positive Deferred Payment Amounts from prior invoices for purposes of payment by Buyer to Seller due on the last Business Day of September 2022. For avoidance of doubt, the absolute value of

Commented [A4]: Is the Adjusted Reduced Invoice Amount as determined at the end of June 2022 still payable on June 30/July 29 (as applicable)? If so, it would be good to specify that, either here, or three paragraphs up (the payment dates paragraph).

any negative Adjusted Deferred Payment Amount shall not be greater than the sum of all positive Deferred Payment Amounts from prior invoices.

For avoidance of doubt, nothing in this Section 2.2.1 excuses Seller and Seller is not excused from its REC Delivery obligations for the Delivery Year starting June 1, 2021 through May 31, 2022.

Notwithstanding any other provision of this Agreement to the contrary, Buyer and Seller acknowledge that if an invoicing related dispute arise out of payment deferrals pursuant to this Amendment, either Party may file an informal and/or formal complaint at the Illinois Commerce Commission to resolve disputes with regard to Deferred Payment Amounts, including calculation or payment thereof, under this Section 2.2.1, and that such proceedings before the Illinois Commerce Commission shall be the exclusive forum to resolve such disputes. The preceding sentence, however shall not preclude mutual agreement of the Parties to resolve any disputes, including through voluntary mediation. Any undisputed amounts shall be paid in accordance with Section 2.2. For avoidance of doubt, all invoicing related disputes that ~~does~~ not arise out of the application of payment deferrals pursuant to this Amendment, including any calculations or payment thereof, shall ~~to~~ be resolved in accordance with Section 2.2.”

b. “The following is added as Section 2.2.2:

If an IPA Deferred Payment Calculation Notice indicates a positive [ComEd/AIC/MEC] ABP Deferral Percentage value for the ~~immediately upcoming~~ Invoicing Mmonth¹ that affects the payment for RECs associated with a Designated System, and if Seller determines that the positive [ComEd/AIC/MEC] ABP Deferral Percentage will have a material adverse effect on the viability of continued operations of such Designated System, then Seller shall have the right to provide a written notice to Buyer and the IPA of such determination and request for the Designated System to be removed from this Agreement. Such written request shall include any supporting documentation and an attestation from Seller that the reason for the termination request is solely related to the payment deferral, and shall be provided by the Invoice Due Date concurrent with its submission of the invoice affected by the payment deferral. The IPA will review all relevant information in determining whether to approve or deny the request. If such written request is granted by the IPA, the IPA shall provide a notice informing both Buyer and Seller of its acceptance of Seller’s request to remove such Designated System from the REC Contract. In addition, the IPA shall issue to Buyer and Seller a revised Schedule A, Schedule B and Schedule C to the Product Order for such Designated System indicating the removal of such Designated System from the Agreement and if payments have been made to Seller with respect to the Designated System, Seller shall return the amount of payment based on the applicable Contract Price and on the difference between the number of RECs used to calculate payment and the number of RECs Delivered through the Invoice Due Date from such Designated System not to exceed the Designated System Contract Maximum REC Quantity. With respect to the invoice, if any, that is submitted with the written notice, the portion of the invoice amount attributable to such Designated System shall not cause the payment to be made for RECs from such Designated System to cumulatively exceed the

Commented [A5]: Query whether "immediately upcoming month" here has a specific intended meaning, since, under ABP, you could have an IPADPCN issued March 25th that applies to the June Invoicing Month (an issue I explored in a comment above). The word "immediately" may or may not make sense here, depending on intent (which is a policy judgment on which I have no view).

¹ As an example, the IPA Deferred Payment Calculation Notice issued by IPA on February 25, 2022 indicates a positive ABP Deferral Percentage value for the Invoicing mMonth of March 2022.

result obtained by multiplying the number of RECs that has been Delivered from such Designated System by the Contract Price of such Designated System. In addition, Buyer shall be entitled to payment by Seller in the amount of the Collateral Requirement with respect to such Designated System calculated as of the applicable Invoice Due Date.”

4. Except as expressly amended hereby, all terms and conditions of the REC Contract remain in full force and effect. This Amendment may be executed in counterparts, each of which will be deemed an original but all of which taken together will constitute one and the same original instrument. Delivery of an executed counterpart of a signature page to this Amendment by electronic means shall be effective as delivery of a manually executed counterpart of this Amendment. Electronic copies of executed original copies of this Amendment shall be sufficient and admissible evidence of the content and existence of this Amendment to the same extent as the originally executed copy or copies (if executed in counterpart).

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed as of the date first written above.

[Insert Seller’s Name]

(“Party A” or “Seller”)

Signed:

Name:

Title:

[Ameren Illinois Company/Commonwealth Edison Company/MidAmerican Energy Company]

(“Party B” or “Buyer”)

Signed:

Name:

Title:

APPENDIX B

DRAFT REC CONTRACT AMENDMENT

Applicable REC Contracts:

- a. **Fall 2017 Wind and Solar RFP (Commission Bid Approval Date: 7 September 2017)**
- b. **Spring 2018 New Solar RFP (Commission Bid Approval Date: 21 March 2018)**
- c. **Spring 2018 Second New Solar RFP (Commission Bid Approval Date: 2 May 2018)**
- d. **Fall 2018 Utility-Scale Wind RFP (Commission Bid Approval Date: 10 October 2018)**
- e. **Fall 2018 Utility-Scale Solar RFP (Commission Bid Approval Date: 4 December 2018)**
- f. **Summer 2019 Brownfield Site PV RFP (Commission Bid Approval Date: 1 August 2019)**

AMENDMENT TO RENEWABLE ENERGY CREDIT AGREEMENT

THIS AMENDMENT TO RENEWABLE ENERGY CREDIT AGREEMENT (the "Amendment") is entered into this 31st day of December, 2021 (the "Effective Date"), by and between _____ ("Seller" or "Party A") and [Ameren Illinois Company d/b/a Ameren Illinois / Commonwealth Edison Company / MidAmerican Energy Company] ("Buyer" or "Party B"). Each of Seller and Buyer is sometimes referred to herein as a "Party" or collectively as the "Parties."

RECITALS:

WHEREAS, Buyer and Seller entered into a Renewable Energy Credit Agreement (the "REC Contract") with an Effective Date of [-], 20[-];

WHEREAS, the REC Contract is subject to and governed by all the terms and conditions of the agreement entitled "Master Renewable Energy Certificate Purchase and Sale Agreement" attached thereto as Exhibit D (the "Master REC Agreement") and such terms, as modified by the REC Contract, are incorporated by reference in the REC Contract (capitalized terms used and not otherwise defined in this Amendment shall have the same meaning as in the Master REC Agreement, as modified by the REC Contract);

WHEREAS, Section 9.5(c) of the Master REC Agreement provides that amendments thereto shall be in writing and executed by both Parties;

WHEREAS, the Illinois Commerce Commission in ICC Docket No. 19-0995 (Order on Reopening dated the 27th day of May, 2021) (the "Commission Order") has approved the IPA's Revised Long Term Renewable Resources Procurement Plan as modified by the Commission Order wherein it provides for the modification of the REC Contract to allow for certain payments by Buyer to Seller for obligations incurred during the period June 1, 2021 through May 31, 2022 to be deferred; and

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual agreements contained in this Amendment and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Section 10(b) of the Cover Sheet is amended to include the following additions:
 - a. The following is added as Section 1.75.1:

““Deferred Payment Amount” means the amount specified as such in Seller’s invoice due on February 10, 2022, March 10, 2022, April 10, 2022, May 10, 2022 or June 10, 2022, the calculation of which is set forth in Section 2.2.1 and as such amount may be adjusted pursuant to any IPA True-up Adjustment as set forth in Section 2.2.1 and as such amount is payable as set forth in Section 2.2.1. Any Deferred Payment Amount so adjusted by an IPA True-up Adjustment shall be an Adjusted Deferred Payment Amount.”
 - b. The following is added as Section 1.75.2:

““[AIC/ComEd/MEC] Deferral Percentage” means the percentage specified as such in the IPA Deferred Payment Calculation Notice.
 - c. The following is added as Section 1.75.3:

“IPA Deferred Payment Calculation Notice” means the notice posted to the IPA’s Website related to the available budget and projected expenditure on renewable resources, including information on the [AIC/ComEd/MEC] Deferral Percentage applicable to an upcoming Invoicing Month (except for the June 25, 2022 IPA Deferred Payment Calculation Notice, which shall include information applicable to the June 2022 Invoicing Month as described in Sections 1.75.4 and 2.2.1), and for which a copy will be issued by the IPA to both Buyer and Seller on or before the 25th of each month starting January 25, 2022 through June 25, 2022.

d. The following is added as Section 1.75.4:

“IPA True-up Adjustment” means an adjustment of any Reduced Invoice Amount specified in the invoice due on June 10, 2022. The IPA True-up Adjustment shall be calculated by applying an adjustment rate specified in the IPA Deferred Payment Calculation Notice issued by the IPA to Buyer and Seller on or before June 25, 2022, and as further described in Section 2.2.1.

e. The following is added as Section 1.75.5:

“Invoicing Month” means a calendar month within the period February 1, 2022 through June 30, 2022 in which invoices are due and submitted to Buyer and ~~for~~ which a [AIC/ComEd/MEC] Deferral Percentage is associated with.

f. The following is added as Section 1.75.6:

“Reduced Invoice Amount” means the amount specified as such in Seller’s invoice due on February 10, 2022, March 10, 2022, April 10, 2022, May 10, 2022 or June 10, 2022, the calculation of which is set forth in Section 2.2.1 and as such amount may be adjusted pursuant to any IPA True-up Adjustment as set forth in Section 2.2.1 and as such amount is payable as set forth in Section 2.2.1. Any Reduced Invoice Amount so adjusted by an IPA True-up Adjustment shall be an Adjusted Reduced Invoice Amount.”

2. Section 2.2 of the Master REC Agreement, as modified by Section 10(c) of the Cover Sheet, is further amended by adding the following at the end of the section:

“Notwithstanding the foregoing, and for avoidance of doubt, this Section 2.2- is subject to Section 2.2.1 and Section 2.2.2.”

3. Section 10(c) of the Cover Sheet is amended to include the following addition:

a. “The following is added as Section 2.2.1:

Notwithstanding Section 2.2 above, this Section 2.2.1 shall govern payment and invoicing requirements for the invoices due on February 10, 2022, March 10, 2022, April 10, 2022, May 10, 2022 and June 10, 2022. For each such invoice, Seller shall render to the Buyer an invoice by electronic mail for the payment obligations of Buyer to Seller by the applicable Invoice Due Date if there are amounts eligible for payment by Buyer to Seller for such Invoicing Month.

All invoices due on February 10, 2022, March 10, 2022, April 10, 2022, May 10, 2022 and June 10, 2022 are subject to payment deferral by Buyer. For purposes of the payment

Commented [A6]: What baseline value does the adjustment rate apply to in order to arrive at the IPATUA: is it the June 10 Deferred Payment Amount, or the cumulative sum of Deferred Payment Amounts, or something like that?

Commented [A7]: I’m assuming that the Adjusted Reduced Invoice Amount is still payable on June 30; I flag that issue in my other comment below. But with that assumption (which could be wrong) in mind, I offer this comment: June 25, 2022 is a Saturday. If the IPATUA is announced on Friday, June 24 and Seller updates its invoice on Monday, June 27, does that give enough time for Buyer to pay the Adjusted Reduced Invoice Amount on Thursday, June 30? Very likely these issues have already been explored... but I just wanted to mention it!

deferral, Seller shall indicate on the invoice (in addition to the requirements set forth in Section 2.2): (a) the Reduced Invoice Amount and (b) the Deferred Payment Amount.

The Reduced Invoice Amount in the invoice, timely submitted, under this Agreement shall be payable and due on the last Business Day of the month in which such invoice is rendered; and the Deferred Payment Amount in the invoice shall be payable and due on the last Business Day of July 2022.

The Reduced Invoice Amount shall not cause the payment to be made to cumulatively exceed an amount equal to the multiplicative product of the Purchase Price and the Delivery Year Requirement for the Delivery Year starting June 1, 2021 through May 31, 2022 less the sum of Deferred Payment Amounts in the invoice submitted and in any prior invoices.

For avoidance of doubt, the Deferred Payment Amount, with respect to an invoice, shall be the amount equal to the multiplicative product of (x) the [ComEd/AIC/MEC] Deferral Percentage applicable to that Invoicing Month and (y) the result obtained by multiplying (1) the Purchase Price by (2) the quantity of RECs Delivered.

For avoidance of doubt, if Seller fails to render an invoice for a Delivery Month by the Invoice Due Date, no payment will be processed for that Delivery Month. For any amounts included in late invoices, those amounts shall be eligible to be submitted by including such amounts as additional line items in the following Delivery Month's invoice for subsequent payment. However, all invoices submitted in an Invoicing Month shall be subject to the [ComEd/AIC/MEC] Deferral Percentage applicable to that Invoicing Month.

Notwithstanding the foregoing in this Section 2.2.1, the Reduced Invoice Amount in the invoice due on June 10, 2022 shall be further subject to an IPA True-up Adjustment. The IPA True-up Adjustment could either increase the Reduced Invoice Amount or reduce the Reduced Invoice Amount. If the IPA True-up Adjustment amount increases the Reduced Invoice Amount, then the Deferred Payment Amount shall be reduced by the IPA True-up Adjustment amount. If the IPA True-up Adjustment amount reduces the Reduced Invoice Amount, then the Deferred Payment Amount shall be increased by the IPA True-up Adjustment amount. The Reduced Invoice Amount and the Deferred Payment Amount after the application of the IPA True-up Adjustment is the Adjusted Reduced Invoice Amount and the Adjusted Deferred Payment Amount, respectively. For avoidance of doubt, the IPA True-up Adjustment amount that increases the Reduced Invoice Amount could be greater than the Deferred Payment Amount, in which case shall result in a negative Adjusted Deferred Payment Amount, which shall be netted against all positive Deferred Payment Amounts from prior invoices for purposes of payment by Buyer to Seller due on the last Business Day of July 2022. For avoidance of doubt, the absolute value of any negative Adjusted Deferred Payment Amount shall not be greater than the sum of all positive Deferred Payment Amounts from prior invoices.

For avoidance of doubt, nothing in this Section 2.2.1 excuses Seller and Seller is not excused from its REC Delivery obligations for the Delivery Year starting June 1, 2021 through May 31, 2022.

Notwithstanding any other provision of this Agreement to the contrary, Buyer and Seller acknowledge that if an invoicing related dispute arise out of payment deferrals pursuant to

Commented [A8]: Is the Adjusted Reduced Invoice Amount as determined at the end of June 2022 still payable on June 30? If so, it would be good to specify that, either here, or four paragraphs up (the payment dates paragraph).

this Amendment, either Party may file an informal and/or formal complaint at the Illinois Commerce Commission to resolve disputes with regard to Deferred Payment Amounts, including calculation or payment thereof, under this Section 2.2.1, and that such proceedings before the Illinois Commerce Commission shall be the exclusive forum to resolve such disputes. The preceding sentence, however shall not preclude mutual agreement of the Parties to resolve any disputes, including through voluntary mediation. Any undisputed amounts shall be paid in accordance with Section 2.2. For avoidance of doubt, all invoicing related disputes that ~~do~~ **does** not arise out of the application of payment deferrals pursuant to this Amendment, including any calculations or payment thereof, shall ~~to~~ **be** resolved in accordance with Section 2.2.”

b. “The following is added as Section 2.2.2:

If an IPA Deferred Payment Calculation Notice indicates a positive [ComEd/AIC/MEC] Deferral Percentage value for the immediately upcoming ~~Invoicing M~~**month**² that affects the payment for RECs associated with the Project, and if Seller determines that the positive [ComEd/AIC/MEC] Deferral Percentage will have a material adverse effect on the viability of continued operations of such Project, then Seller shall have the right to provide a written notice to Buyer and the IPA of such determination and request for the REC Contract to be terminated. Such written request shall include any supporting documentation and an attestation from Seller that the reason for the termination request is solely related to the payment deferral, and shall be provided by the Invoice Due Date concurrent with its submission of the invoice affected by the payment deferral. The IPA will review all relevant information in determining whether to approve or deny the request. If such written request is granted by the IPA, the IPA shall provide a notice informing both Buyer and Seller of its acceptance of Seller’s request to terminate the REC Contract. With respect to the invoice, if any, that is submitted with the written notice, the invoice amount shall not cause the payment to be made to cumulatively exceed the result obtained by multiplying the Maximum Contract Quantity by the Purchase Price. In addition, Buyer shall be entitled to payment by Seller in the amount of the Collateral Requirement calculated as of the applicable Invoice Due Date.”

4. Except as expressly amended hereby, all terms and conditions of the REC Contract remain in full force and effect. This Amendment may be executed in counterparts, each of which will be deemed an original but all of which taken together will constitute one and the same original instrument. Delivery of an executed counterpart of a signature page to this Amendment by electronic means shall be effective as delivery of a manually executed counterpart of this Amendment. Electronic copies of executed original copies of this Amendment shall be sufficient and admissible evidence of the content and existence of this Amendment to the same extent as the originally executed copy or copies (if executed in counterpart).

² As an example, the IPA Deferred Payment Calculation Notice issued by IPA on February 25, 2022 indicates a positive Deferral Percentage value for the ~~Invoicing M~~**month** of March 2022.

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed as of the date first written above.

[Insert Seller's Name]

("Party A" or "Seller")

Signed:

Name:

Title:

[Ameren Illinois Company/Commonwealth Edison Company/MidAmerican Energy Company]

("Party B" or "Buyer")

Signed:

Name:

Title:

