February 4, 2023

Mr. 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 January 20, 2023, Indexed REC Procurement Request for Stakeholder Feedback. As stated in our July 19, 2022, and August 26, 2022, and September 23, 2022, correspondence, EDPR chose not to participate in the 2022 IPA RFP Process because of the unquantifiable risks associated with the non-negotiable contract form. We were pleased to see the addition of a "buyer's fraction" model in the 2022 Fall Indexed REC RFP allowing the seller to enter contracts with multiple buyers based on the percentage of actual production. We commend the Illinois Power Agency ("IPA") for taking this important step and responding to feedback from renewable energy developers. While this is a significant improvement, there are still outstanding provisions that create risk in the contract that financial institutions would factor negatively into their lending decisions. Our comments specifically address Question 6.

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's commercial operation date. EDPR has successfully entered 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 major solar projects totaling 250 MW with executed interconnection agreements. Both projects are on track to be commercial operational by the end of 2024. While we hoped to bid these projects in the indexed REC procurements, we ultimately decided not to because of the significant financial risks in the IPA's contract form.

Question 6: If you opted to not propose a project in a prior Indexed REC RFP, what factors were most important in the decision to not participate?

The IPA implementing provisions allowing for the sale of wind and solar RECs to multiple buyers based on a percentage of actual production is a significant improvement. However, there are still provisions that create financing challenges that would limit our Company's ability to participate. First, the ability for buyers to suspend payments if the IPA has not collected sufficient funds to cover the utilities REC obligation creates too much risk in these contracts.

This scenario is most likely to occur during economic environments that are the least supportive to a merchant project – when brown power prices are low, and the indexed REC prices would be higher to appropriately compensate renewable projects for their costs. Second, in our March 8, 2022, comments, we requested the IPA include a buyer's performance assurance consistent with the requirements placed on the seller.

Cost Recovery

Section 5.4 (Cost Recovery through Pass-Through Tariffs) continues to be a significant impediment to the IPA's securing of the most competitive bids for its processes. Section 5.4 ties the buyer's performance to the Available Funds cap, allowing utilities to suspend the contract if they cannot recover such costs from customers through the pass-through tariff. This contractual feature is extremely problematic: a scenario in which power prices drop for several years in a row (creating an outsize REC payment relative to high-priced environments), it is possible the IPA would not have collected enough money to support its utility scale REC contracts. **This is, coincidentally, the point in time wherein having a firm contract is most essential for a project**. Put another way, as currently contemplated, the projects' REC buyers have a unilaterally exercisable, no penalty suspension right *that is most likely to be used during market environments in which their exercise would be most catastrophic to Seller.* If this section is included in the final contract, why should sellers enter these contracts at all? Why should sellers give away the value during high-priced environments if their buyers are likely to suspend performance in low-price environments?

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 projected indexed-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 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, then we would encourage their recommendation be provided to the legislature.

Buyer's Performance Assurance

Without performance assurance, in the case of an event of default by Buyer, Seller is left with an unsecured claim for damages and forced to resort to costly and time-consuming lawsuits to demand performance and compensation from Buyers who have failed to live up to their obligations in a contract. As bankruptcy is the most serious Buyer event of default, we suggest a posting requirement tied to the investment grade creditworthiness of each Buyer entity. At present, no party would be required to post security; however, if the Buyers' financial situation becomes more perilous, they should match seller's credit amounts via the same forms available to Seller. Section 7.1 outlines extensive seller performance assurance posting requirements and we encourage the IPA's inserting a buyer's performance assurance in the amount of the Collateral Requirement (i.e., $10 times annual quantity for utility-solar) if the Buyer drops below a triple-B rating. This way, in the most serious event of default (via bankruptcy) wherein Seller's recourse to collect damages would be the most in jeopardy, Seller's position is not completely unsecured.

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. We commend the IPA for integrating stakeholder feedback and we hope that improvements can be made to future IPA-led procurements and 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,

EDPR:

EDP Renewables North America LLC,
a Delaware limited liability company

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