



May 17, 2017

Dear Mr. Star,

EDPR North America appreciates the opportunity to respond to the Illinois Power Agency's request for feedback. Please find our responses to the questions the IPA provided in their May 11, 2017 request.

Topic 1: Site Control

At the workshop, some attendees expressed interest in having more stringent requirements for verification of site control than what was presented at the workshop.

1. Site control could be as simple as just submitting a site address, or as strict as demonstration of full site control (e.g., lease agreements with no option for site modification). What would be an appropriate site control standard for the initial forward procurements and why? In responding, please provide sample documents, requirements, or templates for verification of site control, if applicable. Also, in responding, please discuss how a more stringent requirement may impact the ability of new market participants/smaller firms to participate in the procurement.

EDPR feels that some level of site control should be a requirement to enter into the forward procurement; however, it would be unreasonable to expect participants to obtain full site control of a project prior to submitting a proposal. Such a requirement would restrict the number of eligible new projects that would be eligible for the procurement. EDPR would recommend a 10 – 25% site control requirement to have some level of comfort in the project's ability to execute on-time, but also provide for a healthy pool of competitive offers. Given that the form and terms of lease/option documents are extremely confidential, and – depending on the size of the site – the total number of leases/options needed to demonstrate site control may number in the hundreds, in lieu of submitting the actual documentation EDPR recommends that bidders submit an affidavit representing and warranting that the project has the necessary percentage of land under lease or option.

2. Would having the option of providing an additional performance guarantee in lieu of providing evidence of site control mitigate the risk of failure to develop the project in time to start REC deliveries?

IPA is requiring an upfront development security be posted in the amount of half of the notional value of the contract and EDPR feels this is a sufficient guarantee. We would also like to note that, when developing new, large-scale renewable projects, it is important to have some degree of flexibility in commercial operation deadlines to allow for shifts in schedule due to adverse conditions that could be as a result of weather, interconnection, and other construction milestones.

Topic 2: REC Delivery Flexibility

At the workshop, some attendees requested more flexibility in the terms related to REC delivery, including banking of RECs (meeting a delivery year annual delivery quantity with RECs from a previous



year) and/or utilization of replacement RECs (allowing RECs from other eligible projects to be used to meet a delivery year's annual delivery quantity).

1. What circumstances (e.g., operational or performance risks) could lead to a project failing to deliver its annual delivery quantity and could be mitigated through allowing banking and/or replacement RECs?

Outside of an event of force majeure, the Seller could fall short of the required annual REC delivery requirements if there were initial construction delays in the project, transmission outages, wind/solar variability, and electrical curtailments.

2. Should the ability to bank RECs be unlimited or should there be parameters (e.g., quantity, vintage)?

Yes. The ability to bank RECs should be limited by vintage to continue to support the growth of new renewable resources. By allowing unlimited banking of RECs reduces the need for future renewable generation. For example, 1-2 year banking should be sufficient to allow for utilities to meet their targets over the specified time period. To clarify, the ability to bank RECs should only be allowable in situations where there are shortfalls in annual generation requirements. Additionally, in contrast to the REC market in New England, where RECs from a given vintage 'expire' if they are not transferred to a load serving entity capable of banking them towards a future obligation by a very tight deadline window each year, RECs should retain their applicability to be banked (and used to fulfill obligations) regardless of if they are held by a generator or a load serving entity, and should not 'expire' from any account until they are outside of the 1-2 year window established for future eligibility.

3. Should banking of RECs be allowed between multiple projects owned by an entity/affiliate with contracts under the Initial Forward Procurements?

Yes, to provide delivery flexibility to the Seller and Buyer.

4. Taking into account statutory project qualification requirements, should the ability to provide eligible replacement RECs be otherwise unlimited or should there be additional parameters (e.g., quantity, vintage, narrower eligibility of RECs)?

EDPR advises that if a Seller cannot reach its contracted delivery amount using banked RECs, it be allowed to purchase RECs generated within the 1-2 year eligibility window from a similar facility that has been determined by the IPA to be an eligible facility. The requirement should be that the purchased RECs also be generated from a like technology, to avoid marketing confusion.

5. Under what circumstances should underperformance that cannot be remedied through banking and/or replacement lead to the termination of a contract? What alternative penalty provisions should be considered to address underperformance?



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If the Seller is not able to cure its deficiencies within a three – six month period, then market based liquidated damages can be assessed to the shortfall amount. The liquidated damages would be tied to the positive amount (if any) created by subtracting the contract REC price from the then-market price of the RECs purchased by the Buyer to make up the shortfall. The three – six month period is to allow the Seller sufficient time to contract and deliver any shortfall RECs, as needed.

EDPR looks forward to working with the IPA on the procurement process and participating in future renewable solicitations. Please let EDPR know if there is any additional clarification or information needed.

Sincerely,

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