

[Submitter 13 letterhead]

Illinois Power Agency
160 North LaSalle Street
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InClime, Inc. - Program Administrator

Comments on Second Draft of REC Contract

[Submitter 13] thanks the IPA and all other parties involved for releasing a redline contract for comment. We appreciate the changes and improvements that have been made throughout the contract. We also thank the IPA for the opportunity to comment on the redline contract.

[Submitter 13] finds nearly all of the changes made in the contract to be improvements over the first draft. There are still a few minor issues and a few major issues that remain in the contract that we will comment on below. We have also attached a redline document with more comments inline and redline edits suggesting contractual language to implement the changes we recommend in the comments below.

Surplus REC Assignment

The second draft of the contract includes many improvements in regards to the managing and calculation of collateral and collateral drawdown. [Submitter 13] again thanks the IPA and all parties involved for making these improvement. However, there is one significant issue remaining with collateral, the assignment of surplus RECS.

We asked for this modification in previous rounds of comments on the contract so we will not repeat the same arguments here. But, we would like to highlight a few additional points. It is very important that the surplus RECS get assigned in a manner other than lowest price to highest, we are proposing that surplus RECS are assigned starting with the closest priced contract, but we are open to other fixes to this issue.

First because the prices for some REC blocks, especially with adders can be over double the price of other REC categories, there will be many cases where over half of the REC value is forfeit and collateral drawdown occurs at a rate significantly higher than the rate that was paid for the RECS. Please reference the table in the first round of comments for more detail.

[Submitter 13] understands that one way to mitigate this risk is through the use of multiple LLC's. This is not an ideal solution because it reduces the ability of the AV to spread risk across a larger portfolio. Furthermore, actually implementing this strategy is nearly impossible given the timeline and political situation. Due to the federal government shutdown the issuance of the EIN's is significantly delayed. This makes it nearly impossible to even get the companies registered in time to submit systems under multiple LLC's. Even if the multiple LLC's were already formed, given the short time to issue and reissue Standard Disclosure forms and applications under multiple AV companies is just not an effective strategy to mitigate this collateral drawdown risk.

Because of this we are suggesting again that surplus RECS are assigned to the closest price contract that has an underdelivery. We would like to reiterate that this solution does not open up the program to any gaming as the surplus RECS are being used to cover under delivery of systems with a closer REC price than in the current formulation. It also does not create extra administrative work for the Program Administrator or the utility. The system price is easily tracked by the GATS ID number and it will be a simple process to assign RECS to the correct system that Approved Vendors would be able to manage.

If the solution above is not implemented in the contract we offer this option as a second possible solution. RECs could be first assigned on a "price is right" ordering, then assigned from the lowest priced contract to the highest. This would mean that surplus RECS would get assigned to the closest priced under delivering system that is equal to or less than the original price of the surplus RECs. This solution would also help to mitigate the risk of significant REC value being eroded by the assignment of surplus RECS.

Subsequent Delivery Years to Refund Collateral Drawdown

[Submitter 13] appreciates the addition of refundability of collateral to the REC contract. We think this a good improvement over the first draft of the contract. We would like to suggest one additional mechanism to help ensure the best performance possible on the REC contracts at the lowest cost to system owners.

[Submitter 13] suggest that systems that have had collateral drawn upon them during the 15 year period, that do not have surplus RECS to cover this under delivery, are allowed to extend their delivery period past 15 years to recover collateral that was drawn from them.

We understand that a version of this was argued for during the development of the LTRRPP and was not adopted, but the tweak we are suggesting differs in some significant ways from the arguments proposed during the Long Term Plan proceedings. First this mechanism cannot be used to get extra REC payments for the AV or the system owner. It is only used to recover collateral that has been drawn upon already. Second it is not being used instead of a collateral requirement for systems. It just being used in

conjunction with the existing collateral to help make the collateral more effective. And third this is using a small change to provisions that have already been added to the second draft of the contract. The mechanism for implementing this solution is much more easily envisioned now that we are nearing a final REC contract than it was during the Long Term Planning process.

The benefits for including this change are very significant. First this helps to protect system owners and approved vendors both. Even though the REC Contract will be signed and managed by Approved Vendors, the costs of complying with the contract will ultimately be born by system owners. The collateral that is drawn upon will reduce the REC payments made to each system owner, either through additional management fees levied by the approved vendor or by the drawdown payments being made by the system owners themselves. This means that opportunities for collateral drawdowns to be refunded will significantly benefit system owners themselves.

Second this solution benefits the utilities and the State of Illinois. This mechanism will help to ensure that the full contract quantity of RECS gets delivered to the utility. Without this mechanism the utility has no way of getting the final deliveries owed from each system that under delivered during the 15 year term. This results in an increased likelihood that the utility and the State of Illinois falls short of the RPS targets. Our solution will help to fix this.

This change is an easy solution that just requires a small change to existing provisions in the contract. The second draft of the contract added in the subsequent (after 15) delivery years and refundability of collateral. These just need to be modified slightly to affect this change. We have outlined this language in our redline document.

If this proposed change is not accepted by the IPA and other parties, [Submitter 13] offers that a cap could be placed on this provision. We propose that this extension could be limited to up to seven-hundred and thirty days after the delivery term ends. This limitation is already in place in the definition of Delivery Term in the contract.

Collateral Drawdown Source Selected by AV

Approved Vendors will have a number of systems they are managing. These system may choose to provide collateral in both cash and Letters of Credit so it is likely that AV's collateral will be covered by a combination of the two. [Submitter 13] asks that the AV be given the option to choose where collateral drawdowns are taken from if they have both cash and Letters of Credit used. This will help to ensure that cash is not drawn on to cover under delivery for systems that used a Letter of Credit and vice versa.

Thank you for reviewing our comments. We look forward to viewing the final contract and the opening of the program.

Sincerely,

[Submitter 13 representative]