



**ADJUSTABLE BLOCK PROGRAM
FIRST DRAFT – REFRESHED REC CONTRACT
ENGIE COMMENTS
August 14, 2020**

I. INTRODUCTION

ENGIE greatly appreciates the IPA and Program Administrator's efforts to refresh the REC contract for the Adjustable Block Program. The changes reflected in this first draft significantly simplify and clarify the form and will improve the user experience for all stakeholders.

ENGIE North America ("ENGIE") is a power generator, energy services company and retail electricity supplier committed to shaping a more sustainable future throughout the United States and Canada. ENGIE North America has more than 19,000 MW of renewable power projects in operation or development, including wind, solar, battery storage, biomass, biogas, and hydropower. Approved Vendor SoCore Energy LLC – ENGIE's wholly owned subsidiary operating as "ENGIE Distributed Renewables" – is headquartered in Chicago.

ENGIE, through SoCore, is currently completing construction on a portfolio of 29 large DG and community solar projects developed under the 2019 Illinois Adjustable Block Program ("ABP"). We look forward to developing additional projects in the program's next generation.

ENGIE is a member of the Joint Solar Parties (JSP) and supports the comments and suggested redlines JSP will submit today. We have alternative redlines for IPA to consider for one specific section (2.6) as described below.

Thank you for your consideration.

II. SECTION 2.6

2.6 Additional Provisions Related to Community Renewable Energy Generation Projects.

(a) If the Designated System is a Community Renewable Energy Generation Project, the following shall apply:

- (i) the Contract Price for purposes of the first REC payment shall be further adjusted to reflect any Price Adders that may be applicable to the Community Solar Subscription Mix at the time of Energization of such Designated System.¹² Subsequent to Energization, the quantity of RECs as well as the Contract Price used for purposes of the REC payment shall be subject to four (4) additional payment adjustments based on the information in the Community Solar Quarterly Report submitted by Seller to the IPA pursuant to Section **Error! Reference source not found.**, for each of the first four (4) full Quarterly Periods after Energization.³ For purposes of the quarterly payment adjustment, the Contract Price to be adjusted shall be based on the Community Solar Subscription Mix on the last day of the preceding Quarterly Period reported in the Community Solar Quarterly Report submitted by Seller to the IPA;
- (ii) the quantity of RECs used for purposes of the first REC payment shall be based on the percent of Actual Nameplate Capacity that has been Subscribed at the time of Energization⁴ of such Designated System, and which shall be subject to four (4) additional adjustments based on the information in the Community Solar Quarterly Report submitted by Seller to the IPA pursuant to Section **Error! Reference source not found.**, for each of the first four (4) full Quarterly Periods after Energization; and provided that if the percent of Actual Nameplate Capacity that has been Subscribed is less than fifty percent (50%), the quantity of RECs used for purposes of calculating REC Payments shall be zero (0) and shall be subject to Section **1.1(a)(iii)**, if the percent of Actual Nameplate Capacity Subscribed is less than fifty percent (50%) on the last day of the Quarterly Period reported in the fourth (4th) Community Solar Quarterly Report submitted by Seller to the IPA.⁵ For purposes of the quarterly payment adjustment, the quantity of RECs used for purposes of calculating REC Payments shall be based on the percent of Actual Nameplate Capacity that has been Subscribed on the last day of the preceding Quarterly Period reported in the Community Solar Quarterly Report submitted by Seller to the IPA;
- (iii) if the percent of Actual Nameplate Capacity Subscribed is less than one hundred percent (100%) on the last day of the Quarterly Period reported in the fourth (4th) Community Solar Quarterly Report submitted by Seller to the IPA, then Seller may notify Buyer and the IPA within five (5) Business Days of intent to cure. If Seller provides notice of intent to cure within such time period, Seller shall be afforded one (1) Quarterly Period to cure such deficiency, which period may be extended for good cause upon request by Seller to the IPA, and the payment adjustment shall be delayed until after the conclusion of such cure period. For purposes of the deficiency cure process,

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Commented [KM(NA1): Without this change, there is no cure opportunity for a system subscribed over 50% but less than 100%. It is counter intuitive that systems furthest away from fully subscribed would have additional time to cure deficiencies, but those systems closer to fully subscribed would not. The proposed redline would afford any system a limited opportunity to cure a subscription level deficiency before the Maximum REC Quantity is set in stone for the duration of the contract.

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¹ NTD: LTRRPP Section 6.15.4: "If the subscription level has not been met by the time of energization, the adder will be held back from the initial payment and the system will have to wait until it has been in operation for one quarter to demonstrate that it has begun to meet the small subscriber participation level to begin to receive this adder."

² NTD: LTRRPP Section 6.15.4: "The adders for small subscriber participation (i.e., for a minimum of 25%, 50%, or 75% of energy being subscribed) will only be added (on a prorated basis) to the REC price if the project demonstrates that level of participation for the subscribed amount at the time of energization."

³ NTD: LTRRPP Section 6.15.4: "To the extent that an Approved Vendor demonstrates additional subscriptions or updated subscription mixes that would entitle the Approved Vendor to a greater payment, the contract will require that the second payment reflect the increased value for quarters where the additional subscriptions or updated subscription mix entitled the Approved Vendor to additional revenue. If subscriber levels (or mixes) change in such a manner that contract value is reduced, the additional payments would also be adjusted downwards accordingly."

⁴ For avoidance of doubt, this information is submitted by Seller to the IPA as part of its ABP Part II Application requesting Energization.

⁵ NTD: LTRRPP Section 6.15.4: "At least 50% of the capacity of the project must be subscribed at the time of energization in order to receive payment for RECs, and that payment will be based upon calculating the number of RECs that correspond with the amount of the project's capacity that has been initially subscribed."

Seller shall submit updated information for an additional Quarterly Period (or extended cure period approved by the IPA), in an addendum to the fourth (4th) Community Solar Quarterly Report by the tenth (10th) day of the month immediately succeeding such additional Quarterly Period or extended cure period, as applicable. If Seller fails to submit such an addendum to the fourth (4th) Community Solar Quarterly Report **and**, if the percent of Actual Nameplate Capacity Subscribed remains less than fifty percent (50%) on the last day of the additional Quarterly Period or extended cure period reported in the addendum to the fourth (4th) Community Solar Quarterly Report submitted by Seller, then the Designated System shall be removed from this Agreement. As soon as practicable after such occurrence, the IPA shall provide 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 make a payment adjustment to Buyer based on the Contract Price recorded at Energization and on the difference between the number of RECs used to calculate payment and the number of RECs Delivered from such Designated System⁶. Buyer may draw on Seller's Performance Assurance for this purpose. If the percent of Actual Nameplate Capacity Subscribed is at least fifty percent (50%) on the last day of the Quarterly Period reported in the additional Quarterly Period (or extended cure period approved by the IPA) reported in the addendum to the fourth (4th) Community Solar Quarterly Report submitted by Seller, then for purposes of the administration of this Agreement and for purposes of the payment adjustment (including any adjustments to the Contract Price), **the higher of the Actual Nameplate Capacity Subscribed between (A) the value on the last day of the Quarterly Period reported in the fourth (4th) Community Solar Quarterly Report submitted by Seller to the IPA and (B) the updated information applicable on the last day of the additional Quarterly Period reported in the addendum to the fourth (4th) Community Solar Quarterly Report shall be deemed to have prevailed on the last day of the Quarterly Period reported in the initial fourth (4th) Community Solar Quarterly Report submitted by Seller;**

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Commented [KM(NA2): It is possible that daily subscription levels may fluctuate for one reason or another, (though we hope that this is not the case). Pinning the Maximum REC Quantity (and thus, project economics) to subscription levels on a single day is risky – this provision mitigates that risk a bit.

- (iv) the Standing Order for such Designated System shall be amended by Buyer and Seller as soon as practicable after the receipt of instructions to amend the Standing Order provided by the IPA based on information contained in each Community Solar Quarterly Report submitted pursuant to Section **Error! Reference source not found.**, to reflect the percent of Actual Nameplate Capacity that has been Subscribed based on information in such Community Solar Quarterly Report, and any RECs that are not eligible for Delivery under the Standing Order shall be the exclusive property of Seller, to be utilized in Seller's sole discretion. Such amendment to the Standing Order shall be performed on a prospective basis and not retroactive basis regardless of the calculation performed in Section 2.6;
- (v) the final Contract Price and quantity of RECs due payment for the period subsequent to the period covered by the last Community Solar Quarterly Report submitted pursuant to Section **Error! Reference source not found.**, shall be determined based on Community Solar Subscription Mix and percent of Actual Nameplate Capacity that has been Subscribed, respectively, as provided in the last Community Solar Quarterly Report submitted pursuant to Section **Error! Reference source not found.**⁷;
- (vi) if a Designated System has been proposed in its ABP application to have at least fifty percent (50%) of its Actual Nameplate Capacity be Subscribed by Small Subscribers under the ABP, but the Community Solar Subscription Mix is less than fifty percent (50%) based on information provided in the final Community Solar Quarterly Report required to be submitted pursuant to Section **Error! Reference source not found.**, then, **subject to Section 2.6(a)(vii).**, the final Contract Price shall be adjusted to reflect no Price Adder and, in addition, a payment adjustment will be included in the

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⁶ Specifically, if payments have been made to Seller with respect to a Designated System, and the number of RECs Delivered from such Designated System is less than the Designated System Paid REC Quantity, then with respect to each such Designated System, Seller shall return a portion of the amount of payment equal to the multiplicative product of (A) the Contract Price and (B) the positive difference between (i) the Designated System Paid REC Quantity and (ii) the number of RECs that has been Delivered from such Designated System (*not to exceed the Designated System Contract Maximum REC Quantity*).

⁷ NTD: LTRRPP Section 6.15.4: "The calculation of the maximum number of RECs due payment will be determined by the project's subscription level after one year of operation"

subsequent payment due Seller. Such payment adjustment shall reflect the removal of any Price Adder from prior payments made to Seller and a payment due to Buyer equal to twenty percent (20%) of the REC Purchase Payment Amount calculated based on information provided in the final Community Solar Quarterly Report required to be submitted pursuant to Section **Error! Reference source not found.**

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(vii) if the Community Solar Subscription Mix is less than seventy five percent (75%) on the last day of the Quarterly Period reported in the fourth (4th) Community Solar Quarterly Report submitted by Seller to the IPA, then Seller may notify Buyer and the IPA within five (5) Business Days of intent to cure. If Seller provides notice of intent to cure within such time period, Seller shall be afforded one (1) Quarterly Period to cure such deficiency, which period may be extended for good cause upon request by Seller to the IPA, and the payment adjustment shall be delayed until after the conclusion of such cure period. For purposes of the deficiency cure process, Seller shall submit updated information for an additional Quarterly Period (or extended cure period approved by the IPA), in an addendum to the fourth (4th) Community Solar Quarterly Report by the tenth (10th) day of the month immediately succeeding such additional Quarterly Period or extended cure period, as applicable. Seller may take the higher of the Actual Nameplate Capacity Subscribed between (A) the value on the last day of the Community Solar Subscription Mix reported in the fourth (4th) Community Solar Quarterly Report submitted by Seller to the IPA and (B) the value on the last day of the additional Quarterly Period (or extended cure period approved by the IPA). If Seller fails to submit such an addendum to the fourth (4th) Community Solar Quarterly Report or if the Community Solar Subscription Mix is less than fifty percent (50%) on the last day of the additional Quarterly Period or extended cure period reported in the addendum to the fourth (4th) Community Solar Quarterly Report submitted by Seller, then the final Contract Price shall be adjusted to reflect no Price Adder and, in addition, a payment adjustment will be included in the subsequent payment due Seller. Such payment adjustment shall reflect the removal of any Price Adder from prior payments made to Seller and a payment due to Buyer equal to twenty percent (20%) of the REC Purchase Payment Amount calculated based on information provided in the final Community Solar Quarterly Report required to be submitted pursuant to Section **Error! Reference source not found.**

Commented [KM(NA3): This section allows for a limited period to cure deficiencies in the Subscription Mix, mirroring the concept and language in 2.6 (iii). The goal is the same – to mitigate the risk of project economics hinging on a single day's reporting metrics.

(viii) any adjustments to the Contract Price and/or the quantity of RECs used for purposes of the REC payment calculations as provided in this Section 2.6, including any payment adjustments pursuant to Sections ~~1.1(a)(i), 1.1(a)(ii), 1.1(a)(iii), 1.1(a)(v), 1.1(a)(vi)~~ and 2.6(a)(vii), shall be reflected in the calculation of the Maximum Allowable Payment specified by the IPA in the Quarterly Netting Statement that is applicable for payment by Buyer in the following Quarterly Period in accordance with Section **Error! Reference source not found.**⁸ and if such payment adjustment is negative and the amount of such payment adjustment is greater than the immediately subsequent payment due Seller, no payment shall be made to Seller until such Quarterly Period where payment could be made to Seller;

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(ix) following each of the Community Solar Quarterly Reports, any updates to parameters of the Designated System that are reflected on Schedule B to Product Order shall be revised in an updated Schedule B issued by the IPA;

(x) Exhibit F-3 to this Agreement contains an illustrative example of the adjustments to be made following each of the four Community Solar Quarterly Reports as provided in Sections ~~1.1(a)(i), and 1.1(a)(ii)~~ above; and

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(xi) the Parties acknowledge and agree that the IPA shall have the right to obtain Subscription information from the interconnecting utility.

⁸ For example, an adjustment based on a Community Solar Quarterly Report submitted by Seller on September 10, 2020 shall be reflected in the Quarterly Netting Statement issued to Seller on December 1, 2020 and eligible to be included in Seller's invoice due December 10, 2020.