

**COMMENTS OF RENEWABLES SUPPLIERS  
ON ILLINOIS POWER AGENCY'S  
DRAFT 2014 ELECTRICITY PROCUREMENT PLAN**

**I. Introduction and Summary of Comments**

These comments on the Illinois Power Agency's ("IPA") draft 2014 Electricity Procurement Plan ("Draft Plan") are submitted by the following companies (collectively, the "Renewables Suppliers")

- Algonquin Power Company and its subsidiary project company GSG 6, LLC
- EDP Renewables North America LLC and its subsidiary project companies Blackstone Wind Farm, LLC, Meadow Lake Wind Farm, LLC, Meadow Lake Wind Farm II LLC, Meadow Lake Wind Farm III LLC and Meadow Lake Wind Farm IV LLC
- Invenergy LLC and its affiliated project companies Grand Ridge Energy IV LLC and Invenergy Illinois Solar I LLC.
- NextEra Energy Resources, LLC and its subsidiary project company FPL Energy Illinois Wind, LLC.

Each of the above-listed project companies holds a long-term power purchase agreement ("LTPPA") with one of the electric utilities for the supply of electricity from renewable resources (either wind generation or solar generation) bundled with the associated renewable energy credits ("RECs"). The LTPPAs were entered into as the result of the IPA's December 2010 long-term bundled renewable resources procurement events for Commonwealth Edison ("ComEd") and Ameren Illinois ("Ameren") pursuant to the IPA Procurement Plan approved by the Illinois Commerce Commission ("Commission") in Docket 09-0373.

In addition, the Renewables Suppliers are authorized to state that Acciona Energy North America Corporation and Goldwind USA Inc. support these comments. Each of these additional companies, either directly or through a subsidiary project company, has built utility-scale wind energy resources in Illinois and looks forward to the opportunity to develop additional renewable resources and to participate in future IPA-administered procurements.

The Renewables Suppliers began deliveries to the electric utilities under their LTPPAs in the 2012-2013 Procurement Year. For the current, 2013-2014 Procurement Year, as proposed in the IPA's 2013 Procurement Plan and approved by the Commission in Docket 12-0544, a portion of the contractual delivery amount under each of the Renewables Suppliers' LTPPAs with ComEd was curtailed due to the operation of the rate impact limit provisions of the Illinois Renewable Portfolio Standard ("RPS") in §1-75(c)(2) of the IPA Act, 20 ILCS 3855/1-75(c)(2). As directed in Docket 12-0544 for the 2013 Procurement Plan, a portion of the curtailed RECs under each LTPPA is being purchased by ComEd using Alternative Compliance Payment ("ACP") funds accumulated by ComEd with respect to its customers on its hourly pricing tariff

("hourly ACP funds"). Additionally, the IPA has exercised its authority under §1-56 of the IPA Act, 20 ILCS 3855/1-56, to contract with the Renewables Suppliers to purchase the balance of their curtailed RECs for the 2013-2014 Procurement Year (*i.e.*, those not purchased by ComEd using hourly ACP funds), using monies appropriated from the IPA Renewable Energy Resources Fund ("RERF"). However, these arrangements for the 2013-2014 Procurement Year have resulted in the Renewables Suppliers receiving less than the full revenues provided for in their LTPPAs for the renewable energy and associated RECs.

The Draft Plan projects, based on the ComEd and Ameren load forecasts that the Draft Plan recommends be adopted, that curtailments of REC purchases under the ComEd LTPPAs will be necessary again in the 2014-2015 Procurement Year and that curtailments of REC purchases will also be necessary under the Ameren LTPPAs. The Renewables Suppliers' concerns relate to the amount of the potential curtailments of REC purchases under the LTPPAs, the nature of the curtailments, and the treatment of the curtailed RECs. In summary, the Renewables Suppliers offer the following comments on the Draft Plan:

1. If the IPA and the Commission determine that curtailments of REC purchases under the LTPPAs with either electric utility are necessary for the 2014-2015 Procurement Year, the electric utility should be directed to use its accumulated hourly ACP funds to purchase curtailed RECs from the Renewables Suppliers.

2. If the IPA and the Commission determine that curtailments of REC purchases under the LTPPAs are necessary for the 2014-2015 Procurement Year, the IPA should continue to use funds available and appropriated from the RERF to purchase curtailed RECs from the Renewables Suppliers.

3. The Draft Plan should be revised to specify, and recommend to the Commission that it order, that only the REC purchase portion of the LTPPAs should be curtailed, not the energy purchase portion. This determination would be consistent with the way in which the IPA (and the Commission) determines whether and to what extent the Renewable Resources Budget ("RRB"), and thus the rate impact limits of §1-75(c)(2) of the IPA Act, will be exceeded for a procurement year. The IPA determines whether and to what extent the RRB will be exceeded solely based on the imputed cost of RECs to be purchased under the LTPPAs, using an imputed REC price derived by deducting from the bundled energy plus REC price in each LTPPA the energy price for the procurement year taken from the long-term forward energy price curve developed by the IPA in 2010 to evaluate the bids for long term bundled renewable energy resources submitted in the December 2010 procurement event ("2010 forward energy price curve"). The cost of the associated energy contracted for under the LTPPAs is not considered. Because the IPA's determination of whether REC purchases under the LTPPAs should be curtailed does not take into account the energy component of the bundled renewable energy resources contracts, therefore, only the REC purchase portion, and not the energy component, of the LTPPAs should be curtailed.

-- Under this approach, the electric utilities (using hourly ACP funds) and the IPA (using the RERF) would purchase curtailed RECs from the Renewables Suppliers at the imputed REC prices derived by deducting from the bundled price in each LTPPA

the energy price for 2014-2015 taken from the IPA's 2010 long-term forward energy price curve (*i.e.*, the same imputed REC prices used by the IPA to determine if the RRB would be exceeded).

- Under this approach, the electric utilities would settle the energy component of the LTPPAs associated with the curtailed RECs based on the energy price for the 2014-2015 Procurement Year from the IPA's 2010 forward energy price curve, less the hourly Day-Ahead Energy Market locational marginal price at the applicable Regional Transmission Organization ("RTO") node ("day-ahead hourly LMP"), in accordance with the terms of the LTPPAs for settling the energy portion of the bundled renewable energy resources contracts.<sup>1</sup>
- Under this approach, because the energy portions of the LTPPAs would not be curtailed, the amount of new energy procurement provided for in the IPA Draft Plan for the 2014-2015 Procurement Year to serve the loads of the electric utilities' eligible retail customers ("ERCs") can be correspondingly reduced.

4. Alternatively to point 3, if the IPA and the Commission conclude that purchases of both RECs and the associated energy under the LTPPAs should be curtailed, then the Draft Plan should be revised to specify that the electric utilities (using hourly ACP funds) and the IPA (using the RERF) will purchase curtailed RECs at a price equal to the bundled price in the LTPPA less the hourly LMPs. This approach treats the value of the RECs supplied under the LTPPAs as the bundled energy plus REC price specified in each LTPPA less the day-ahead hourly LMPs (*i.e.*, the market cost of energy).

5. The values of the projected ERC load in the ComEd and Ameren "middle" or "expected" load forecasts for the 2014-2015 Procurement Year, included in Appendices B and D, respectively, to the Draft Plan, are not the midpoint values between the forecast values in the utilities' "high" and "low" load forecasts, but rather are closer to the forecast values in the "low" load forecasts.<sup>2</sup> While it is not possible for the Renewables Suppliers to specifically determine the reason for these outcomes from reviewing the Draft Plan and the load forecast information in Appendices B, C, D and E, or to propose detailed adjustments to the load forecasts, the Renewable Suppliers believe that the Draft Plan should be revised to adopt, and to recommend that the Commission adopt, a "middle" load forecast for each electric utility that represents the mid-point between its "high" and "low" load forecasts.

Further, the IPA should not simply accept the electric utilities' middle load forecasts, but should proactively focus on the fact that the greater uncertainty associated with the electric utilities' supply obligations for the 2014-2015 Procurement Year is that a large segment of ERCs will migrate from alternative retail electric suppliers ("ARES") back to the electric utilities, not

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<sup>1</sup> Contract settlement mechanics for this approach are discussed in more detail in §II.B below.

<sup>2</sup> For Ameren, this analysis is based on the monthly values of "Net MWh" for June 2014 through May 2015 in the Bundled Service Load Forecast – Expected Case with Incremental Energy Efficiency and the monthly values of "Net MWh" in the High Case and Low Case shown on Tables D-5, D-7 and D-8 in Appendix D to the Draft Plan.

that a significant additional number of ERCs will migrate from the electric utilities to ARES. A significant re-migration of ERCs to the electric utilities for electric supply service could result in the utilities having insufficient contracted supply and being required to purchase additional supply on spot markets or through other higher-priced, short-term arrangements, to the detriment of ratepayers. The IPA should strive to recommend adoption of risk-adjusted load forecasts for the 2014-2015 Procurement Year that appropriately consider the significant risks and costs associated with a large re-migration of ERCs from ARES to utility supply service.

6. The Renewables Suppliers recognize that the 2014-2015 Procurement Plan, including the determination of whether the RRBs are exceeded and whether or to what extent REC purchases under the LTPPAs must be curtailed, will ultimately be based on the electric utilities' updated load forecasts to be submitted in Spring 2014, rather than on the load forecasts adopted by the IPA in the Plan it files with the Commission on September 30, 2013 ("Filed Plan"). Because of the importance of the electric utilities' updated load forecasts in determining whether and to what extent the RRBs will be exceeded and curtailments of REC purchases under the LTPPAs are required, a brief period should be provided after the Spring 2014 load forecast updates are made available to allow interested parties to file comments on the updated load forecasts, before the IPA and the Commission adopt final load forecast values to be used for procurement, RRB, REC purchase curtailment and other applicable determinations for the 2014-2015 Procurement Year.

7. With respect to the IPA's strawman legislative proposal (Draft Plan at 103), the IPA should provide additional discussion in the Filed Plan concerning its reasoning for procuring additional renewable resources in the sequence indicated, should it be granted additional (or different) statutory authority. The IPA should consider the benefits (should it receive the necessary authority) of procuring additional long-term renewable energy resources currently when prices may well be lower than in future years.

## **II. Detailed Discussion of the Renewables Suppliers' Comments**

### **A. If Curtailments of REC Purchases under the LTPPAs Are Necessary in the 2014-2015 Procurement Year, the Electric Utilities and the IPA Should Continue to Purchase Curtailed RECs from Renewables Suppliers as They Are Doing for the 2013-2014 Procurement Year**

The Draft Plan states that the IPA will recommend the Commission order curtailments of the LTPPAs based on the electric utilities' Spring 2014 load forecast updates, and that:

To mitigate the impact of these curtailments the IPA also recommends the use of Alternative Compliance Payments collected from customers on hourly pricing to purchase some of all of the curtailed Renewable Energy Credits ("RECs"). While not subject to ICC jurisdiction, the IPA will also plan to use finds from the RERF to purchase any remaining curtailed RECs. (Draft Plan at 12.)

Correspondingly, the Action Plan set forth in the Draft Plan states that the Commission should "Approve the use of hourly ACP funds to buy curtailed RECs" (Draft Plan at 14). The Draft

Plan also states that “for informational purposes, the IPA believes it would be beneficial to explain its plans for spending the RERF and allowing the ICC and stakeholders to coordinate the ICC jurisdictional Procurement Plan spending with the IPA’s RERF spending” (*id.* at 102). The purchase of curtailed RECs using hourly ACPs held by the electric utilities and using ACPs held by the IPA in the RERF is discussed in greater detail at pages 101-103 of the Draft Plan.

The Renewables Suppliers have no proposed changes to these specific recommendations and proposed actions in the Draft Plan, but rather endorse the proposals that, to the extent there are curtailments of REC purchases under the LTTPAs for the 2014-2015 Procurement Year due to the RRB being exceeded, the electric utilities should again be directed to use hourly ACP funds to purchase curtailed RECs, and that the IPA continue to use ACP funds held in the RERF to purchase the balance of curtailed RECs that cannot be purchased using the electric utilities’ hourly ACP funds.<sup>3</sup>

With respect to the IPA’s purchase of curtailed RECs using ACP funds that have been paid to the IPA by ARES and are held by the IPA in the RERF, the Renewables Suppliers note that the amounts of the ARES’ ACPs paid to the IPA are a function of the amount of retail electric load served by the ARES, as specified in §16-115D of the Public Utilities Act (“PUA”), 220 ILCS 5/16-115D. The General Assembly has specified that a portion of the ARES’ RPS obligations under §16-115D should be met by paying ACPs to the IPA, which the IPA can use to purchase RECs.<sup>4</sup> As discussed in the Draft Plan and in the ComEd and Ameren load forecast Appendices, during 2012 and 2013 there has been significant switching by ComEd and Ameren ERCs to ARES for electricity supply service due primarily to the adoption by many Illinois municipalities of municipal aggregation (“Muni Ag”) programs.<sup>5</sup> This extensive switching of ERCs from the electric utilities to ARES has resulted in the curtailments of REC purchases under the LTTPAs for the 2013-2014 Procurement Year and, based on the load forecasts recommended for adoption in the Draft Plan, will result in curtailments of REC purchases for the 2014-2015 Procurement Year. The extensive load switching by ERCs was not foreseen, nor reasonably foreseeable, at the time of the IPA’s December 2010 procurement event for bundled renewable energy resources which resulted in the LTTPAs being awarded and entered in to. Due to the subsequent extensive load switching and acquisition of additional ERC load by ARES, the ARES’s ACP obligations have significantly increased. The ARES’ increased ACP obligations are a direct result of the ARES’ acquisition of significant amounts of ERC load that was to have been served by the electric utilities via the LTTPAs. Thus, it is completely reasonable and logical that the ARES’ ACP payments, which have increased significantly as a direct result of the ARES’ acquisition of ERC load that the electric utilities were expected to serve, should be

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<sup>3</sup> The Renewables Suppliers do not dispute the IPA’s position that the IPA’s proposed use of the RERF is outside the Commission’s jurisdiction. The Renewables Suppliers appreciate that the IPA has elected to set forth in the Draft Plan its intent to again use the RERF to purchase curtailed RECs. Inclusion of this information in the Draft Plan provides additional certainty for the Renewables Suppliers and helps to provide a complete picture of the actions to be taken in the 2014-2015 Procurement Year with respect to the disposition of the RECs contracted for under the LTTPAs.

<sup>4</sup> Section 16-115D(d) of the PUA and §1-56 of the IPA Act.

<sup>5</sup> Draft Plan at 27-28, 33, 37-39; Appendix B (Ameren) at 7-11; Appendix C (ComEd) at 8-13.

used by the IPA to purchase curtailed RECs that were to have been supplied to the electric utilities under the LTPPAs.

**B. If the IPA and the Commission Determine that the Renewable Resources Budget Will Be Exceeded for the 2014-2015 Procurement Year, Only the REC Purchase Portion of the LTPPAs Should be Curtailed**

In evaluating the bids for the LTPPAs in the December 2010 bundled renewable energy resources procurement, the IPA (and the Commission) developed and used a confidential 2010 forward energy price curve for the period to be covered by the LTPPAs. The IPA and the Commission used the confidential 2010 forward energy price curve to calculate the imputed REC prices in the bidders' proposals for the LTPPAs (*i.e.*, bid price for bundled renewable energy resources less projected forward energy price = imputed REC price in a LTPPA bid proposal). The imputed REC prices were then compared to the statutory rate impact limits and to "benchmark" REC prices to determine if the REC purchases under the proposed LTPPAs as bid would be "cost effective" as required by §1-75(c)(2) of the IPA Act. The average imputed REC prices calculated using the values in the confidential 2010 forward energy price curve, for the first five years only, were released for the first time in 2013 pursuant to the Commission's December 2012 Order in Docket 12-0544.

It is the Renewables Suppliers' understanding that the IPA uses only the imputed REC prices in the LTPPAs (determined as described in the preceding paragraph) to determine if the RRB (and thus the statutory RPS rate impact limits) will be exceeded for each procurement year. The RRB is the statutory rate impact limit per kwh (0.18917 cents/kwh for ComEd and 0.18054 cents/kwh for Ameren<sup>6</sup>) times the forecasted ERC load to be served by the respective electric utility for the year. The RRB amount for the electric utility is compared to the sum of the product of the imputed REC price under each of the LTPPAs for the year times the LTPPA contract quantity. If the RRB for an electric utility is less than the total calculated cost of the contracted RECs (again, calculated using the imputed REC price described in the preceding paragraph), a curtailment of REC purchases under the LTPPAs is necessary in order to reduce the dollar amount of the REC purchases for the year to the RRB.<sup>7</sup> Neither the full bundled prices of renewable energy resources under the LTPPAs, nor the day-ahead hourly LMPs, are considered in this calculation. This procedure was specified in Appendix K to the IPA's 2010 Procurement Plan that the Commission approved in Docket 90-0373:

To quantify the annual cost of the RECs for the purpose of the RPS, the Procurement Administrator, in consultation with the IPA, the ICC Staff, and the Procurement Monitor shall develop a confidential 20 year forward price curve for energy at the load zone, including the estimated magnitude and timing of the price effects related to federal carbon controls. Each forward curve shall contain a specific value of the forecasted market price of electricity for each annual delivery year of the contract. In every delivery year, the imputed REC component of expenditures under the bundled renewable contracts will be determined as the

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<sup>6</sup> Draft Plan at 17.

<sup>7</sup> These calculations are shown at pages 99-101 of the Draft Plan for the 2014-2015 Procurement Year.

difference between the expected annual contract expenditures for that year (based on the winning target Contract Quantities and Contract Prices) and the total target Contract Quantities times the forward price curve for each respective load zone for that year. For purposes of determining the maximum expenditure allowed under the RPS bill-impact cap, the forward price curve values will be fixed over the life of the contracts and cannot be subsequently changed or updated, except as follows: . . . Following the successful completion of a long-term renewable procurement event, the IPA will submit a confidential report to the Commission and the affected utility which contains the REC spend in each year of the resulting contracts that will be counted toward the renewable resources price cap. (2010 Procurement Plan, Appendix K at 2-3.)

The Renewables Suppliers have previously expressed concerns to the IPA about the above-described procedure due to the fact that neither the confidential 2010 forward energy price curve (developed as described above), nor the imputed REC prices calculated by the IPA using the 2010 forward energy price curve, is a part of the Renewables Suppliers' LTPPAs, nor were these values known to the Renewables Suppliers at the time they entered into the LTPPAs. The LTPPAs specify only a single, bundled price for renewable energy resources comprised of energy generated from a renewable resource and the associated REC. The LTPPAs also specify a settlement process for the energy portion of the contracts under which the Renewables Suppliers are paid, for their energy generated in each hour, the difference between the bundled price specified in the LTPPA and the day-ahead hourly LMP for the hour. Nonetheless, the Renewables Suppliers are here proposing an approach for the REC purchase curtailment determination, the purchase price for curtailed RECs, and the settlement of energy transactions associated with the curtailed RECs under the LTPPAs, that is consistent with the procedures used by the IPA for determining the imputed REC prices, determining whether or not the RRB will be exceeded for the procurement year, and determining whether curtailment of REC purchases under the LTPPAs is necessary.

Specifically, the Renewables Suppliers submit that the Draft Plan should be revised to state that the IPA recommends that the Commission determine and order that only REC purchases, and not the energy portion, of the LTPPAs should be curtailed for the 2014-2015 Procurement Year.<sup>8</sup>

- Because the IPA's (and the Commission's) determination of whether the RRB will be exceeded is based solely on the REC purchase portion of the LTPPAs, using the imputed REC prices derived from the 2010 forward energy price curve, there is no basis for curtailing the energy portion of the LTPPAs.
- Under this proposal, the electric utilities (to the extent of their accumulated hourly ACP funds) and the IPA (using the RERF) can then purchase curtailed RECs at the imputed REC prices derived from the 2010 forward energy price curve (*i.e.*, the same

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<sup>8</sup> This is contingent, of course, on the IPA and the Commission concluding, based on the Spring 2014 load forecast updates, that the RRB will be exceeded.

imputed REC prices used to make the RRB/curtailment determination), just as ComEd and the IPA are doing for the current procurement year.

- Correspondingly, the electric utilities would settle the energy portion of the LTPPAs associated with the curtailed RECs, on a monthly basis, based on the difference between the 2014-2015 energy price from the 2010 forward energy price curve (*i.e.*, the same energy price used to determine the imputed REC prices) and the day-ahead hourly LMPs.

The LTPPAs allow the electric utilities to curtail purchases under the LTPPAs due to the operation of the RPS rate impact limits specified in §1-75(c)(2) of the IPA Act, if required by law, statute, or an order, rule or decision of the Commission. The LTPPAs further specify that “unless otherwise directed by the Illinois Commerce Commission or statute,” the electric utility will reduce the quantity of RECs and the associated energy purchased under each LTPPA on a proportionate basis to the levels of purchases which are recoverable under the rate impact limits. Therefore, the Commission can order that only the REC purchases under the LTPPAs need to be reduced in order for the rate impact limits to not be exceeded (*i.e.*, for the RRB to not be exceeded), and the electric utilities can curtail the REC purchases under the LTPPAs by the percentage determined by the IPA and the Commission. The energy portion of the LTPPAs has provided the electric utilities with an energy price hedge based on the 2010 forward energy price curve, and the electric utilities should continue to be allowed to recover the cost of the hedge for the entire contract quantity of energy in each LTPPA, including the energy associated with the curtailed RECs, through their tariffs.<sup>9</sup> The recoverable hedging cost for the contracted energy associated with curtailed RECs should be 2014-2015 the energy price from the 2010 forward energy price curve less the day-ahead hourly LMPs.

Mechanically, the monthly contract settlements under the Renewables Suppliers’ proposed approach would be straightforward.

- The electric utility would pay the supplier for the amount of energy generated in each hour of the month (up to the original, full contract quantity) at the bundled contract price less the day-ahead hourly LMP (as provided for in the LTPPAs), but would deduct from the payments the product of the imputed REC price times the number of curtailed RECs (determined using the curtailment percentage).
- Alternatively, the utility could settle separately (i) for the non-curtailed RECs and associated energy, at the bundled contract price less the day-ahead hourly LMPs, and (ii) for the energy associated with the curtailed RECs, at the energy price from the 2010 forward energy price curve less the day-ahead hourly LMPs.<sup>10</sup>

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<sup>9</sup> Under the LTPPAs, the Renewables Suppliers are, of course, only entitled to be paid the settlement amount for energy actually generated by their specified generation facilities and delivered to the transmission grid. Per the terms of the LTPPAs, the Renewables Suppliers are not paid a settlement amount by the electric utilities unless, and only to the extent that, they generate electricity from their specified renewable resource generation facilities.

<sup>10</sup> Mathematically these two approaches will produce the same result. Other approaches to the monthly settlements are possible; the two approaches described here are provided as examples.

The Renewables Suppliers' proposal would result in the following outcomes:

- The RRB and the rate impact limits (calculated using the imputed REC prices that the IPA has heretofore calculated to determine if the RRB will be exceeded) are not exceeded;
- REC purchases under the LTPPAs are curtailed to the extent necessary to prevent the RRB from being exceeded;
- The Renewables Suppliers are kept whole for the energy portions of their LTPPAs, including the energy associated with curtailed RECs;
- The electric utilities are also kept whole by recovering the cost of the energy hedges embodied in the LTPPAs; and
- Curtailed RECs are purchased by the electric utilities (using hourly ACP funds) and the IPA (using the RERF) at the same imputed REC prices used by the IPA to evaluate the LTPPA bid prices in the December 2010 procurement event and to determine the extent to which REC purchases must be curtailed to prevent the RRB from being exceeded.

Additionally, because the energy portions of the LTPPAs do not need to be curtailed under this approach, the energy associated with the curtailed RECs should be taken into account in determining whether and to what extent it is necessary to conduct additional energy procurements for the electric utilities to have sufficient contracted energy to serve the projected loads of ERCs for the 2014-2015 Procurement Years. The LTPPAs are bundled contracts for the provision of energy from renewable energy resources and the associated RECs. This is true even though the LTPPAs are financially settled based on the difference between the bundled contract prices and the day-ahead hourly LMPs, without the energy generated by the Renewables Suppliers' facilities necessarily being delivered to ComEd or Ameren. The Draft Plan includes the contracted energy quantities under the LTPPA in the electric utilities' total contracted supplies for the 2014-2015 Procurement Year.<sup>11</sup> As discussed above, the energy components of the LTPPAs do not need to be curtailed in order to prevent the RRB and the statutory RPS rate impact limits from being exceeded. It makes no sense to treat the energy portion of the LTPPAs associated with the curtailed RECs as being curtailed, and then to procure additional energy from other sources (to replace the curtailed energy under the LTPPAs) in order to meet the electric utilities' total ERC supply needs.

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<sup>11</sup> See the discussion in the Draft Plan at 44-47, where the electricity from renewable energy resources contracted under the LTPPAs, prior to any curtailments, is included in the electric utilities' supply portfolios for the 2014-2015 Procurement Year. ComEd or Ameren may elect to financially settle with the Renewable Suppliers for purposes of the LTPPAs and not take delivery of energy from the Renewables Suppliers facilities, and instead acquire physical electricity from other sources in real time. However, the contracted bundled renewable energy resources under the LTPPAs are still part of the electric utilities' overall contracted energy supplies.

**Alternative Approach.** The preceding paragraphs of this §II.B describe the Renewables Suppliers’ proposed approach for addressing curtailments under the LTPPAs if it is determined, based on the Spring 2014 load forecast updates, that the RRB will be exceeded for either electric utility. However, if the Commission were to determine that both REC purchases and the associated energy under the LTPPAs must be curtailed, then the electric utilities (using hourly ACP funds) and the IPA (using the RERF) should purchase curtailed RECs at a price equal to the bundled contract price less the day-ahead hourly LMPs. The resulting amount is the imputed value of the REC portion of the LTPPA, with the day-ahead hourly LMPs comprising the energy value of the contract. This is the approach that some of the Renewables Suppliers proposed in the negotiations concerning ComEd’s and the IPA’s purchases of curtailed RECs for the 2013-2014 Procurement Year. Further, use of the bundled prices for energy plus associated RECs specified in the LTPPAs – which were the “winning bid prices” in the December 2010 procurement event for bundled renewable energy resources – less the hourly LMPs, to determine the prices at which the IPA will purchase curtailed RECs, appropriately bases the IPA’s purchase of the RECs on “the winning bid prices paid for like resources procured for electric utilities required to comply with Section 1-75 of this Act” as specified in §1-56(d) of the IPA Act.

**Attachment 1** to these Comments provides further explanation of the alternative approach. Attachment 1 is adapted from comments submitted to the IPA by two of the Renewables Suppliers in connection with the IPA’s 2013-2014 purchase of curtailed RECs.

**C. The Forecast Values for the Middle Load Forecast Adopted by the IPA for Each Electric Utility Should be the Mid-Point Values Between the Utility’s High and Low Forecast**

The values of the projected ERC load in the ComEd “middle” load forecast for the 2014-2015 Procurement Year, included in Appendix C to the Draft Plan, are not the midpoint values between the values in the ComEd “high” and “low” load forecasts provided in Appendix C, but rather are closer to the forecast values in the “low” load forecast. As can be seen from Tables II-14, II-15 and II-16 on pages 32-33 of Appendix C to the Draft Plan, the projected energy usage of ComEd ERCs for the 2014-2015 Procurement Year under ComEd’s high, middle (“expected”) and low load forecasts is:

High forecast:	16,380,846 Mwh (8,396,945 Mwh On-Peak + 7,983,901 Mwh Off-Peak)
Middle forecast:	11,131,421 Mwh (5,729,046 Mwh On-Peak + 5,402,375 Mwh Off-Peak)
Low forecast:	9,465,530 Mwh (4,858,270 Mwh On-Peak + 4,607,260 Mwh Off-Peak)

The midpoint energy usage value between the high load forecast and the low load forecast is 12,923,188 Mwh, which is 1,791,767 Mwh (16.1%) higher than ComEd’s middle load forecast for the 2014-2015 Procurement Year. A forecasted ERC energy usage value for the 2014-2015 Procurement Year of 12,983,188 Mwh would significantly reduce (although not completely eliminate) the indicated REC purchase curtailment percentage for ComEd.

Similarly, for Ameren, the values of the projected ERC load in the Ameren “middle” load forecast for the 2014-2015 Procurement Year, included in Appendices B and D to the Draft Plan,

are not the midpoint between the forecast values in the Ameren “high” and “low” load forecasts, but rather are closer to the forecast values in the “low” load forecast.<sup>12</sup>

High forecast:	10,702,018 Mwh
Middle forecast:	4,965,273 Mwh
Low forecast:	1,869,670 Mwh

The midpoint energy usage value between the high load forecast and the low load forecast is 6,285,844 Mwh, which is 1,320,571 Mwh (26.6%) higher than Ameren’s middle load forecast for the 2014-2015 Procurement Year. A forecasted ERC energy usage value for the 2014-2015 Procurement Year of 6,285,844 Mwh would result in no REC purchase curtailment being necessary for Ameren.

The Renewables Suppliers do not have access to the detailed mathematical models and calculations used by the electric utilities in arriving at their high, middle and low forecasts, in order to determine and evaluate the specific inputs and assumptions that result in the forecast values in the middle load forecasts not being the midpoint values between the high and low forecasts. However, it appears that this outcome is largely a function of the assumptions used in the forecast scenarios for additional switching by ERCs between the electric utilities and ARES. For example, the Draft Plan notes that “ComEd defines high and low load growth scenarios as 2% above or below the load growth in their base or expected load forecast,” and observes that “differences of +/-2% in load growth should represent a good range of uncertainty.” Draft Plan at 35-36. From this baseline starting point, therefore, it would appear that ComEd’s middle load forecast values would be midpoint values between the high and low forecast values. The discussion at pages 37-39 of the Draft Plan of supplier switching by ERCs due to Muni Ag programs, wholesale pricing and market arrangements highlights that switching by ERCs is by far the major uncertainty factor associated with the load forecasts. Other factors discussed at pages 36 and 39-40 of the Draft Plan, including the impacts of weather, energy efficiency programs, demand response programs, and emerging technologies (such as advanced metering infrastructure and electric vehicles), do not appear to be significant drivers of load forecast uncertainty for the 2014-2015 Procurement Year. Nor do these other factors seem to be the reason that the forecast values in the middle load forecasts are closer to the low load forecast values than to the high load forecast values. The Draft Plan notes that in the Ameren load forecasts, “the difference in the amount of switching among the three cases is significant” (Draft Plan at 27); it also notes that ComEd’s high and low switching assumptions are not as extreme as Ameren’s, but that the ComEd low load forecast assumes the departure of an additional 10% of ERC load due to implementation of additional Muni Ag programs and additional switching to ARES (*id.* at 33).

Although customer switching is the major source of uncertainty in the utility load forecasts, it is not apparent from the discussion in the Draft Plan why assumptions about customer switching in 2014-2015 should result in the forecast values in the middle or “expected” load forecasts being closer to the low load forecast values, rather than midpoint values. ComEd

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<sup>12</sup> See footnote 2 above for source tables in Appendix D to the Draft Plan.

forecasts that the share of the ERC load it will supply will decrease from 34.4% in June 2103 to 28.1% in June 2014 and further to 25.1% in June 2015. Appendix C at 12 (Table II-4). Similarly, under its “base” load forecast, Ameren forecasts that the share of residential load in its territory supplied by ARES will increase from approximately 55% as of June 1, 2013 (Appendix B at 8) to approximately 68% in June, 2014. (The 68% figure was derived from Figure 3-5, “Utility Load Retention in Ameren Forecasts” on page 28 of the Draft Plan.) However, the IPA’s analysis in the Draft Plan is that “At this point the uncertainty around municipal aggregation and switching may be more related to the chance that utility load will increase from return to service or opt out [from participation in Muni Ag programs].” Draft Plan at 37. The Draft Plan further states that:

As shown in Figure 3-20 over half the current supply contracts for municipal aggregation will expire in the 2014-2015 procurement year. Many of the renewal offers made by the suppliers to municipal aggregations may be out of the money relative to utility bundled supply prices, so there may be a considerable amount of return to utility service.” (*Id.*)

The Draft Plan also observes that, for a number of reasons, in an environment of falling electricity prices, ERCs may be motivated to switch from utility supply to ARES supply, while in an environment of rising electricity prices, ERCs may be motivated to switch from ARES supply to utility supply. *Id.* at 38-39. With a large number of existing Muni Ag supply contracts with ARES expiring in June 2014 and beyond, until that time there will not be clarity on the expected numbers or usage of ERCs to be served by the electric utilities during the 2014-2015 Procurement Year.

The Renewables Suppliers do not believe that the discussion in the Draft Plan supports the additional amounts of ERC switching from the electric utilities to ARES reflected in the utilities’ middle load forecasts for the 2014-2015 Procurement Year. Nor does the discussion support middle load forecast values for the 2014-2015 Procurement Year that are not (at least approximately) the midpoint values between the electric utilities’ high and low load forecasts.

To the contrary, the Renewables Suppliers believe that the IPA needs to proactively evaluate the utilities’ load forecasts and focus on the risk of significant re-migration by ERCs from ARES to the electric utilities during the 2014-2015 Procurement Year. Given the extent of migration to ARES due to Muni Ag programs adopted over the last two years, the state of the Muni Ag programs, the expiration of contracts, and potential price trends and customer reactions to them, as described above, there is a much greater risk that a significant segment of ERCs will return to the utilities from the ARES, than there is that significantly more ERCs will switch from the utilities to the ARES. The Draft Plan’s proposed adoption of the utilities “expected” load forecasts fails to comprehend this risk. If there were to be significant re-migration of ERCs to the electric utilities, the contracted supplies could be inadequate, resulting in a need for the utilities to acquire additional supply during 2014-2015 in spot markets or through other shorter-term and higher-priced arrangements. This outcome would be detrimental to ratepayers. Adoption of load forecast values, for purposes of the Filed Plan, that are midpoint values between the utilities’ high and low load forecasts would more appropriately recognize that the

more significant risk associated with the 2014-2015 Procurement Year is the risk of substantial re-migration of ERC load to the electric utilities.

The Renewables Suppliers do recognize that, ultimately, the load forecast values in the Filed Plan will not be used to determine the procurement amounts for 2014-2015, whether the RRB will be exceeded, and if so the correspondingly REC purchase curtailment percentages. Rather, those determinations will be based on the electric utilities' Spring 2014 load forecast updates. However, for the reasons discussed above, the Renewables Suppliers believe that for purposes of the Filed Plan, the IPA should adopt load forecasts for each electric utility that represent midpoint values between the utilities' high and low forecasts. The calculations in the Filed Plan of supply requirements, additional amounts of energy to be procured, and whether the RRB will be exceeded for Ameren and/or ComEd and, if so, the resulting curtailment percentage(s), should be determined based on these midpoint load forecast values.

**D. The Filed Plan Should Recommend that the Commission Should Provide for a Brief Comment Period on the Spring 2014 Electric Utility Load Forecast Updates When They Are Submitted**

As noted above, the electric utilities will submit load forecast updates in Spring 2014 and these load forecast updates (subject to such additional adjustments as the IPA and the Commission may make) will be the final load forecast values used to determine the electric utilities' supply requirements for the 2014-2015 Procurement Year, whether the RRB will be exceeded, and whether and to what extent curtailments of REC purchases under the LTPPAs will be required. The Spring 2014 updated load forecast values will determine whether and to what extent (if any) the RRBs for the electric utilities will be exceeded and, if so, the extent of the curtailment of REC purchases under the LTPPAs. Therefore, the Spring 2014 load forecast updates are extremely important to the Renewables Suppliers. Given the importance of the Spring 2014 load forecast updates, interested parties should be provided a brief period to review and submit comments on them before the updated load forecasts are adopted (or adopted with adjustments) by the IPA and the Commission for purposes of finalizing the 2014-2015 Procurement Plan. Accordingly, the IPA Plan should recommend that the Commission provide for a brief period of 7 to 14 days after the Spring 2014 load forecasts are made available during which interested parties can submit comments on the updated load forecasts to the IPA and the Commission.

**E. The Filed Plan Should Include Additional Discussion of the IPA's Strawman Legislative Proposal and the Actions the IPA Would Take If Given the Additional (or Different) Authority Contemplated by its Strawman Proposal**

The Renewables Suppliers appreciate the IPA's inclusion in the Draft Plan (at page 103) of a brief discussion of its strawman legislative proposal and the actions the IPA would take if it were granted additional (or different) authority as contemplated by its proposal. The Renewables Suppliers recognize that the applicable provisions of the IPA Act and the PUA do not require that such a discussion be included in the Draft Plan. The Renewables Suppliers believe, however, that interested stakeholders would benefit, and the "conversation" will be enhanced, from a more extended discussion in the Filed Plan of the actions that the IPA would anticipate

taking were it to be given additional or different statutory authority. In particular, the Renewables Suppliers are interested in a more extended discussion of the IPA's reasoning for purchasing distributed generation ("DG") resources using solar DG, then utility-scale new solar resources, then utility scale new wind resources, in that order.

Additionally, in connection with discussion of the strawman legislative proposal, the IPA should consider and discuss the potential benefits of procuring, in the near term, greater amounts of renewable energy resources that are subject to the federal Production Tax Credit ("PTC"). The Renewables Suppliers believe that currently, and for at least the near-term future, procuring wind energy resources is and will be the lowest cost approach to meeting the RPS. This is due, in significant part, to the PTC. Legislative proposals continue to be advocated to phase-out or eliminate the PTC; however, those proposals typically provide for the PTC to be phased out or eliminated for new wind generation facilities that commence construction (or operation) after a specified future date. Existing wind generation facilities would continue to receive PTCs. As a result, contracting in the near-term for additional supplies of energy from renewable resources that are subject to the PTC can potentially lock in lower prices for renewable resources that may not be available in the longer term, to the benefit of Illinois ratepayers.

### **III. Modifications to the "Action Plan" in the Draft Plan Based on These Comments**

Based on the Renewables Suppliers' comments herein, the Action Plan set forth on page 14 of the Draft Plan should be revised as follows:

1. Item 1 should be revised to state: "Approve base case load forecasts for ComEd and Ameren that represent midpoint electricity usage values between each electric utility's "high" and "low" load forecasts, with such forecasts to be updated from time to time during the pendency of the approval docket."<sup>13</sup>

2. Item 2 should be revised to state: "Require the utilities to file updated March 2014 load forecasts with the Commission in the approval docket, and specify that interested parties shall have 14 days thereafter to file comments on the updated load forecast in the approval docket."<sup>14</sup>

3. Item 6 should be revised to state: "Approve curtailments of only REC purchases (and not energy) under ComEd's and Ameren's Long-Term Power Purchase Agreements for bundled renewable energy resources, to the extent shown to be necessary, based on the base load

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<sup>13</sup> The Renewables Suppliers also recommend that the IPA add tables to the Filed Plan, in either §3.5.1 or §8.1, showing the specific load forecast values that the IPA is recommending be adopted and on which its RRB and curtailment calculations are based, for each utility for the 2014-2015 Procurement Year.

<sup>14</sup> In order to provide adequate time between the Commission's approval of final load forecast values for the 2014-2015 Procurement Year and the date(s) by which actions must be taken based on the final load forecast values in accordance with the approved Procurement Plan, it may be appropriate for the Commission to specify a particular date in early March or even late February 2014 by which the Spring 2014 load forecast updates should be filed.

forecast of each utility (subject to the updated Spring 2014 load forecasts adopted by the Commission), so that the utility's Renewable Resources Budget is not exceeded.

4. Add a new item (referred to here as 6A to indicate its placement in the Action Plan in the Draft Plan) to state: "Confirm that the electric utilities should settle the energy associated with curtailed RECs under the LTPPAs at an amount equal to the 2014-2015 energy price in the 2010 forward energy price curve less the day-ahead hourly LMP as determined by the applicable RTO for each hour in which such energy is delivered, and that the electric utilities are entitled to recover such settlement payments, which represent an energy hedge cost, through their tariffs."

5. If the IPA elects to adopt the Renewables Suppliers' proposed alternative approach to determining the prices to be paid for curtailed RECs, then item 7 should be revised to state: "Approve the use of hourly ACP funds to buy curtailed RECs, at prices equal to the bundled contract price in the long-term power purchase agreement less the day-ahead hourly LMPs as determined by the applicable RTO for the hours in which the associated energy is generated."

In addition, the first sentence of §3.5.1 of the Draft Plan should be revised to state: "The IPA recommends adoption of base case load forecasts for ComEd and Ameren, including incremental energy efficiency programs, that represent midpoint electricity usage values between each electric utility's "high" and "low" load forecasts." The tables, charts and other calculations in the Draft Plan showing the electric utilities' supply requirements, the RRB for each utility, the difference between the RRB and the contracted REC purchases under the LTPPAs for each utility, and the required curtailment percentage for REC purchases by each utility under its LTPPAs, should be revised to reflect such midpoint base case load forecast values.

Finally, in accordance with the discussion in §II.E above, the Filed Plan should include an expanded discussion of the IPA's strawman legislative proposal and the actions the IPA would take if granted additional or different authority as contemplated in its strawman proposal.

Respectfully submitted,

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## Attachment 1

### **Discussion of Alternative Approach To Determining Purchase Price for Curtailed RECs**

Based on the procurement process set forth in Appendix K to the IPA's 2010 Procurement Plan and approved by the ICC at pages 115-120 of its December 28, 2009 final Order in Docket 09-0373 concerning the 2010 Procurement Plan, the "bid prices" of the LT PPAs for bundled renewable energy resources were required to be submitted on a bundled, single-price basis for both the electricity from the renewable generating resource and the associated RECs. Appendix K specified that "the contract terms will be standardized and winning bids will be selected on the basis of price alone." App. K at 2. Bidders were required to, and did, submit bids for the LTPPAs on the basis of a single, bundled price for energy from renewable resources and the associated RECs beginning with the 2012-13 Procurement Year.<sup>1</sup> The average "winning bid price" in the 2010 long-term renewable energy resources procurement event was \$55.16/MWh on a bundled basis for energy and the associated RECs.

Further, the procurement process specified in Appendix K, and memorialized in the form PPAs developed by the IPA, which the bidders were required to accept without negotiation (as provided in §16-111.5(e)(2) of the PUA), specified that deliveries under the long-term PPAs will be settled on the basis of the Contract Price less the hourly LMP at the utility's load zone for each hour in the day-ahead market of the applicable RTO:

The delivery of energy will be accomplished through a fixed for floating financial swap. **The fixed price for the swap will be the full bundled contract price for the renewable PPA. The floating price will be the Locational Marginal Price ("LMP") at the utility's load zone for each hour in the day-ahead market of the applicable Regional Transmission Organization. . . .** Seller will provide hourly-integrated generation meter data (from a revenue quality meter that satisfies RTO requirements) on a day after basis to the utilities and the IPA to enable them to perform the necessary calculations. For all energy produced by the applicable percentage of the seller's specified unit(s), the utilities will calculate the difference between the hourly LMP in the day-ahead market for their zone, and the Contract Price. **The price differences will be multiplied by the applicable percentage of the volume of energy produced by the specified unit(s) in each hour. For every hour that the unit(s) produced energy, if the LMP in the day ahead market at the utility's zone is less than the Contract Price, the utility will pay the seller the difference in these costs multiplied by the quantity of energy produced by the unit(s) multiplied by the bid percentage related to the output from the relevant generating unit.** For every hour that the unit(s) produced energy, if the LMP in the day-ahead market at their zone is higher than the Contract Price, the seller will pay the utility the difference in these costs multiplied by the quantity of energy produced by the unit(s)

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<sup>1</sup> The bidding requirements as specified in Appendix K required that the bid prices be in the form of a base price for the 2012-13 Procurement Year with a fixed escalation rate of 2% per year. App. K at 4.

multiplied by the bid percentage related to the output from the relevant generating unit. The net of the positive and negative payments will be settled on a monthly basis. (App. K at 4; emphasis added.)

Thus, the “winning bid prices” under the LTPPAs were the single, bundled price for energy and the associated RECs bid by each of the successful bidders; and the prices to be received by the winning bidders for RECs associated with the energy generated in each hour are the bundled Contract Price less the day-ahead hourly LMP for each hour in the applicable load zone. There is no other basis for determining the “winning bid price” that can be derived from Appendix K or from the actual contracts.

In contrast, the confidential 20-year forward energy price curve that the IPA used to determine the price of the curtailed RECs it is purchasing during the 2013-2014 Procurement Year was not developed to determine the “winning bid prices,” but rather was developed to determine if the RPS rate impact limits specified in §1-75(c)(2) of the IPA Act would be exceeded. Appendix K to the 2010 Procurement Plan stated:

To quantify the annual cost of the RECs for the purpose of the RPS, the Procurement Administrator, in consultation with the IPA, the ICC Staff, and the Procurement Monitor shall develop a confidential 20 year forward price curve for energy at the load zone, including the estimated magnitude and timing of the price effects related to federal carbon controls. Each forward curve shall contain a specific value of the forecasted market price of electricity for each annual delivery year of the contract. In every delivery year, the imputed REC component of expenditures under the bundled renewable contracts will be determined as the difference between the expected annual contract expenditures for that year (based on the winning target Contract Quantities and Contract Prices) and the total target Contract Quantities times the forward price curve for each respective load zone for that year. For purposes of determining the maximum expenditure allowed under the RPS bill-impact cap, the forward price curve values will be fixed over the life of the contracts and cannot be subsequently changed or updated, except as follows: . . . Following the successful completion of a long-term renewable procurement event, the IPA will submit a confidential report to the Commission and the affected utility which contains the REC spend in each year of the resulting contracts that will be counted toward the renewable resources price cap. (Appendix K at 2-3.)

There is nothing in Appendix K, or in the actual contract documents for the LTPPAs, that specifies or indicates that the 2010 forward energy price curve values would be, or were, used to determine the “winning bid prices” for the LTPPAs, nor the amounts that the winning bidders would actually be paid for RECs under the long-term PPAs. The 2010 forward energy price curve is not part of the pricing calculation under the LTPPAs. In fact, the values of the 2010 forward energy price curve were not known to the bidders at the time of the bidding, nor to the winning bidders at the time they entered into the LTPPAs. The average blended imputed REC prices, computed using the 2010 forward energy price curve, for the first five years under the LTPPAs, were not disclosed by the IPA until early 2013, pursuant to the authorization to

disclose granted by the ICC in its December 19, 2012 Order in Docket 12-0544 concerning the 2013-2014 Procurement Plan, and the 2010 forward energy price curve itself has not been revealed.<sup>2</sup>

Therefore, use of the Renewables Suppliers' actual "winning bid prices" – the bundled prices for energy plus associated RECs – less the day-ahead hourly LMP values determined using the process that bidders were required to accept and the LTPPAs provide for – is the appropriate measure of the "winning bid prices" of RECs as specified in §1-56(d) of the IPA Act. This calculation better represents the "winning bid prices" of RECs than does a calculation made using the IPA's confidential 2010 forward energy price curve which was not known to the bidders at the time of bidding, is not known to the winning bidders now, was not part of the bid documents, and is not part of the LTPPAs or of the pricing calculation in the LTPPAs. Further, there is nothing in the relevant portions of the Commission's order in Docket 09-0373 (pages 115-120), approving the long-term procurement of bundled renewable resources and the procurement process specified in Appendix K, that contradicts or detracts from the above analysis.

In addition to being the best representation of the "winning bid prices" as specified by §1-56(d), there are other reasons why the calculation specified in the LTPPAs should be used to determine the prices to be paid for curtailed RECs. First, there is no logic to assigning a different price to curtailed RECs than the price paid for non-curtailed RECs under the LTPPAs. There is nothing in the circumstances that have resulted in the curtailments of the LTPPAs that relates to the nature or quality of curtailed versus non-curtailed RECs.

Second, the IPA's purchase of curtailed RECs using the RERF represents the purchase, using monies paid by ARES to meet their RPS obligations, of RECs that were contracted for to meet the RPS requirements applicable to the ERCs of the electric utilities who have now shifted to ARES. For this reason as well, the same price should be paid for curtailed RECs as will be paid for non-curtailed RECs under the LTPPAs.

Third, purchase of curtailed RECs at the imputed REC price derived from the 2010 forward energy price curve could enable a seller to engage in arbitrage based on the day-ahead hourly LMPs used to settle REC deliveries under the LTPPAs. For hours in which the hourly LMPs result in REC prices for non-curtailed RECs that are lower than the REC price resulting from use of the 2010 forward energy price curve, a seller could deliver RECs to the IPA; while for hours in which the day-ahead hourly LMPs result in REC prices for non-curtailed RECs that are higher than the REC prices resulting from use of the 2010 forward energy price curve, a seller could deliver RECs to the electric utility. In contrast, pricing the curtailed RECs at the bundled contract price under the LTPPA less the day-ahead hourly LMP will allow for no such arbitrage, because the prices for non-curtailed RECs delivered to the electric utility under the LTPPA and the prices for curtailed RECs delivered to the electric utilities and the IPA will be determined in the same way using the same underlying hourly energy price data.

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<sup>2</sup> Final Post-Order 2013 Procurement Plan, filed April 5, 2013, in Docket 12-0544, at 84.