

**[Committer 4]
Comments on Second
Draft Indexed REC
Contract**

From: [Commenter 4]
Sent: Friday, September 23, 2022 6:50 PM
To: Illinois-RFP <Illinois-RFP@nera.com>
Subject: Second Draft Indexed REC Contract

Good afternoon,

As with my prior comments on IPA REC contracts, I am speaking only for myself and on behalf of no organization; I have not discussed or shared these comments with anyone. I am attempting to comment only on the technical coherence of the contract. Disclaimer, in my professional work, I work with various environmentalist and/or renewable energy organizations.

Here are my comments on the Second Draft Indexed REC Contract dated September 9, 2022.

I.

The crux of my comments is that I am uncertain of whether "RFP Project Percentage" as used in the contract is intended to be the same as "Project Percentage" as used in the Draft RFP Rules of September 9th (sections I.2.8, IV.2.2, and V.5.1). **If** the two values **are** meant to be the **same**, then I have the following suggested edits.

Section 1.91 (definition of RFP Project Percentage) should be amended as follows:

"RFP Project Percentage" means the percentage of the Actual Production associated with RECs committed to performance under this Agreement **and under all other REC agreements for the Project resulting from the RFP**, as offered by Seller through the RFP and as indicated in the Product Order. The RFP Project Percentage may not be amended during the Term of this Agreement.

And the second and third sentences of **Section 2.3(b)(iii)** should be amended as follows.

The Standing Order shall be for the automatic recurring transfer of RECs associated with a Vintage within the Acceptable Vintage Period. The Standing Order shall reflect Buyer's allocated share of the RFP Awarded Annual Quantity, which shall be calculated by dividing (a) ~~the multiplicative product of the RFP Project Percentage and~~ the Annual Quantity by (b) the RFP Awarded Annual Quantity, **and shall further reflect the RFP Project Percentage**. For avoidance of doubt, RECs that are not transferred pursuant to this Section 2.3(b)(iii) shall remain the exclusive property of Seller, to be utilized in Seller's sole discretion; such RECs are not associated with the **Buyer's allocated share of the** RFP Project Percentage and cannot be used to meet the Delivery Year Requirement or Maximum Contract Quantity under this Agreement.

II.

Alternatively, if "RFP Project Percentage" as used in the contract is intended to equal "Project Percentage" from the RFP **multiplied by** the Buyer's allocated share of the RFP Awarded

Annual Quantity (where the allocated share is, e.g., 72.445% for ComEd as Buyer, per Section I.2.4 and I.2.12 of the Draft RFP Rules), then I would suggest **no** edits to **Section 1.91**, but I would suggest the following edits to the second sentence of **Section 2.3(b)(iii)**:

The Standing Order shall be for the automatic recurring transfer of RECs associated with a Vintage within the Acceptable Vintage Period. The Standing Order shall reflect Buyer's allocated share of the ~~RFP Awarded Annual Quantity~~**Actual Production**, which shall ~~equal be calculated by dividing (a) the multiplicative product of~~ the RFP Project Percentage ~~and the Annual Quantity by (b) the RFP Awarded Annual Quantity~~. For avoidance of doubt, RECs that are not transferred pursuant to this Section 2.3(b)(iii) shall remain the exclusive property of Seller, to be utilized in Seller's sole discretion; such RECs are not associated with the RFP Project Percentage and cannot be used to meet the Delivery Year Requirement or Maximum Contract Quantity under this Agreement.

[Comment: without my suggested edit to Section 2.3(b)(iii) as shown immediately above, ComEd's ratio of Annual Quantity ÷ RFP Awarded Annual Quantity = 72.445% would enter into the calculation twice, since (by assumption) it's also a factor of RFP Project Percentage.]

If I have misunderstood the intent or design of the new provisions introduced on September 9th, please ignore, and I apologize!

Thank you,

[Commenter 4]

[Commenter 4]'s contact information