

[Commenter 5]
Comments on
Indexed REC
Contract and
Preliminary Proposal
Requirements

From: [Commenter 5]

Sent: Monday, March 23, 2026 5:47 PM

To: Illinois-RFP <Illinois-RFP@nera.com>

Subject: Feedback to 2026 Draft REC Contract and Preliminary Proposal Requirements

Dear IPA,

Please see feedback attached from [Commenter 5] to the 2026 Draft REC Contract and Preliminary Proposal Requirements. Feel free to reach out with any clarifying questions to our comments.
Thanks!

Best,

[Commenter 5]

- Feedback to the IPA's Summer 2026 Indexed REC RFP

General Feedback:

Derivative Accounting Treatment and Delivery Obligations

This agreement would most likely result in derivative accounting treatment in its current form, as the payment is a net settlement based on the difference in the index price and fixed price and there is a minimum quantity of RECs the seller is required to deliver. This could create financial reporting issues for many participants. One alternative we would propose for consideration in order to avoid derivative treatment is to link REC deliveries to availability guarantees rather than minimum quantity guarantees.

Seller Events of Default

The twenty (20) Business Day cure periods (plus the potential extension of another twenty (20) Business Days) provided for Seller to cure breaches of representations and warranties and certain material covenants and obligations is shorter than we typically see and accept. We prefer cure periods that are at least thirty (30) days with potential for a sixty (60) day extension as needed (or at least ninety (90) days total) so that we have a sufficient opportunity to cure the underlying breach.

Assignment

Seller would seek explicit rights, without requiring IPA's consent, to assign the Agreement in certain situations, including as part of upstream transactions and as part of financing methods other than just direct pledging. Seller would be open to certain limitations on the transfers, including the requirement that the Performance Assurance either remains in place or is fully replaced by the assignee.

Government Action

To maximize participation and minimize prices for ratepayers, we propose that this provision (Article 11) be eliminated such that Sellers do not bear the risk of regulatory change to REC criteria after the bid submission date. We have provided markup language relevant in the event our suggested change is not made, in which scenario higher bid prices should be expected.

Feedback to Specified Topics from IPA

Topic 2: Impacts of H.R. 1

1. Beginning with the Summer 2025 Indexed REC RFP, Section 11.3 Investment Tax Credit (ITC), an Production Tax Credit (PTC) or Clean Electricity Investment Credit Contingency was added to the Indexed REC Contract. This contract term has been maintained for the Fall 2025 Indexed REC RFP. The intent of this term is to protect Sellers from potential future changes to the availability of investment tax credits or other such clean electricity investment credits used to develop projects participating in the upcoming procurement. Relief under Section 11.3 is intended to address bona fide and material changes in ITC or PTC eligibility arising from government actions occurring after contract execution.
 - a. Does Section 11.3 provide sufficient protection for Sellers from potential future changes? Why or why not? What are the current unknowns for whether a Project will receive the ITC and PTC federal tax benefits?

2. What other uncertainties stemming from H.R. 1 or other government actions can and should be addressed by the Indexed REC Contract? Are there contract terms currently in use to address such uncertainties? If so, please provide available samples.

[REDACTED]

3. What strategies are developers employing to increase the availability of federal tax benefits for projects? Are there changes to the Indexed REC procurement process or the Indexed REC Contract that can support such strategy

Topic 3: General Feedback on Improvements

1. Are there specific eligibility requirements or procurement processes that are overly prohibitive for a Technology? Please explain.
2. Please provide feedback for improvements to the procurement requirements.

The IPA can expect to receive lower bid prices by allowing longer PPA terms of 25 or 30 years, and as-generated REC supply rather than requiring a fixed quantity.

3. How did you learn about the Indexed REC RFP opportunity? Are there other venues or mediums through which information could have been published that would have made it easier for you to learn about the procurement event?