



September 30, 2022

Submitted to LT.RFP@ieso.ca

Subject: Feedback on the draft E-LT1 Contract

Evolugen by Brookfield Renewable welcomes the opportunity to provide feedback on the draft E-LT1 Contract (dated August 25, 2022) and the Request for Proposal process in general. Our recommendations and requests for clarification are below:

- Capacity targets and Storage carve-out
 - o Evolgen would appreciate the confirmation, as soon as possible, of the capacity volume carved out for Storage projects in both the Expedited and Long-Term RFPs.
 - o In addition, the prioritization of Storage carve-out target volume would strongly help developers continue to advance projects.
- Material Cost Index
 - o Evolgen generally supports the Renewable Consortium's submission on this topic. What's more, we support mechanisms to transfer both up- and down-side cost risks from battery suppliers and integrators to the IESO. A fully hedged—in terms of timeline, costs, and cost percentage—indexation mechanism would protect both the IESO and the developer in a transparent manner.
 - o We wish to highlight the importance of making available a "menu" of indices (e.g., Shanghai Metals Market for Lithium Carbonate and Freightos for transportation) approved by the IESO for developers to select from.
 - o Please provide examples to clarify how the adjustment mechanism would affect contract award price.
- Energy Spread



- We note that consistency between the draft RFP document and the draft RFP Contract is important for developers. Additional examples of the mechanism that the IESO has proposed and its impact on contract pricing would be helpful.
- We iterate our support for the original CanREA Energy Spread proposal as a simple and market-efficient solution.
- In general, we recommend that the “spread” should not be considered monthly: it should be considered daily to match storage devices’ operating principles, and to incent such devices to cycle and settle once a day.
- With regards to the Energy Spread draft proposal from the IESO, we recommend:
 - Tighter AMPS (Average Market Price Spread) bands (e.g., \$20/MWh & \$40/MWh instead of \$10-50/MWh).
 - A larger High and Low Spread Adjustment Factor (e.g., 0.3 instead of 0.2).
- Change of Control
 - Change of Control provisions critically affect developer financing, as such provisions dictate the future sale, re-assignment, re-financing, and the feasibility of change of ownership of the projects.
 - We strongly recommend the adoption of FIT Contract language regarding Change of Control, where Change of Control is allowed after COD and in connection with specific enumerated instances. Any operational risk for the IESO related to Change of Control can be mitigated by allowing changes to a Qualified Buyer who meets a minimum credit threshold and/or a minimum level of experience. The IESO’s RFQ Eligibility requirements have already successfully outlined such qualifications.
- Confidentiality
 - In general, “Confidential Information” needs to be explicitly identified and defined. As such, we request the removal of Article 8.1 (d) (iii).
 - In the same vein, Contract Disclosure should be subject to stricter confidentiality provisions, at least in-line with the FIT contract language. For example, if compelled to disclose the Contract to a regulatory body, the Supplier should be able to do so without



seeking cooperation of IESO legal counsel (see 8.2 Notice Preceding Compelled Disclosure).

- Also, Exhibit G, Article 4 Covenants of the Supplier sub-paragraph (e) should be removed.
- Force Majeure
 - Evolgen appreciates the IESO including language covering current world events. We suggest the IESO adding critical equipment and critical path language to further provide schedule relief to account for equipment and supply chain delays outside of the developer's control.
 - In general, we recommend the IESO to generalize Permitting, Licensing, and Municipal Support relief as found in 2.14(b), as well as more flexibility in terms of document submission and revision deadlines.
- Other General Comments and Questions
 - 1.1. "Related Products"
 - Please clarify if "Related Products" in 2.6 (b) includes Capacity as a product.
 - Article 12
 - Please clarify why 12.1 (e) imposes a limit of two debts per Secured Lender's Security Agreement.
 - Article 13
 - We recommend changing "the date" in 13.1 (a) (i) to "Contract Date."
 - We recommend changing "agreement" in 13.1 (a) (ii) to "consent."
 - Pay for Performance
 - Please confirm that any provisions related to "Pay for Performance" would be limited to the delivery of the Capacity product.
 - 15.3 Reports to the Buyer
 - Please clarify how the Annual Operating Plan's approval process would be defined.
 - 15.6 (e) (ii) & 15.6 (g) (i)



- We recommend further discussions on the Capacity Check Test in the context of Event of Default, both in terms of criteria (85% as proposed) and the remedy period.
- 1.1 "State-of-Charge Limited" & Exhibit E-2
 - We recommend relief from obligations related to State-of-Charge Limited and other such clauses, if the limitation were caused by IESO directed action (e.g., reliability call to discharge) or an inability to charge battery due to IESO/Hydro One line issues.
- 16.2 Arbitration
 - We recommend adding an informal dispute resolution process between senior managements prior to proceeding to Arbitration.
- 2.8 (c) Insurance Covenants
 - We recommend that this obligation be limited to providing insurance certificates only, and not entire policies.
- 7.1 (d) Representations of the Supplier
 - We recommend removing "being contemplated."

We request additional opportunities to revise the contract language between developers and the IESO. In particular, we would appreciate the establishment of a formal timeline to govern future revision processes until the final contract can be published.

Thank you,

Julien Wu

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