

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

Illinois Power Agency	)	
	)	
Petition for Approval of the IPA’s Revised	)	ICC Docket No. 19-_____
Long-Term Renewable Resources Procurement	)	
Plan Pursuant to Section 16-111.5(b)(5)(ii)	)	
of the Public Utilities Act	)	

**THE ILLINOIS POWER AGENCY’S VERIFIED PETITION  
FOR APPROVAL OF ITS REVISED LONG-TERM RENEWABLE RESOURCES  
PROCUREMENT PLAN PURSUANT TO 220 ILCS 5/16-111.5(b)(5)(ii)**

Pursuant to the authority granted by the Illinois Power Agency Act, 20 ILCS 3855/1-5, *et seq.*, and the Illinois Public Utilities Act, 220 ILCS 5/1-101, *et seq.*, the Illinois Power Agency (“IPA” or “Agency”) hereby submits to the Illinois Commerce Commission (“Commission” or “ICC”) for consideration and approval its proposed plan for the procurement of renewable energy credits (“RECs”) for Ameren Illinois Company (“Ameren Illinois”), Commonwealth Edison (“ComEd”), and MidAmerican Energy Company (“MidAmerican”) (collectively referred to as the “Utilities”) under Sections 1-56(b) and 1-75(c) of the Illinois Power Agency Act (20 ILCS 3855) (“IPA Act”) and Section 16-111.5(b)(5) of the Public Utilities Act (220 ILCS 5) (“PUA”).

The IPA’s Revised Long-Term Renewable Resources Procurement Plan (“Revised Long-Term Plan,” “Revised Plan,” or “Plan”), attached to this filing, sets forth the Agency’s proposals for the procurement of RECs—tradeable credits that represent the environmental attributes of one megawatt hour of energy produced from a qualifying renewable energy generating facility—as required by Sections 1-56(b) and 1-75(c) of the IPA Act. The attached Revised Plan is not the “initial long-term renewable resources procurement plan” (“Initial Plan”) contemplated by Section 16-111.5(b)(5)(ii)(B)(aa) through (cc) of the PUA (which was filed by the Agency on December 4, 2017 and approved by the Commission on April 3, 2018 in Docket No. 17-0838), but rather is

a “revision” to the Initial Plan, effecting the requirement of Section 1-75(c)(1)(A) of the IPA Act that “[t]he Agency shall review, and may revise on an expedited basis, the long-term renewable resources procurement plan at least every 2 years.”

In accordance with Section 16-111.5(b)(5)(ii)(C) of the IPA Act, the Illinois Commerce Commission is required to enter its Order “confirming or modifying” the Plan within 120 days after this filing.<sup>1</sup> As the IPA believes that its Revised Long-Term Renewable Resource Procurement Plan is designed to “reasonably and prudently accomplish the requirements of Section 1-56 and subsection (c) of Section 1-75 of the Illinois Power Agency Act,”<sup>2</sup> the Agency respectfully requests its approval.

## **BACKGROUND**

Public Act 99-0906, omnibus energy legislation signed into law on December 7, 2016 with an effective date of June 1, 2017, introduced a series of significant reforms to the Illinois energy statutory and regulatory landscape. Among them included the expansion of targets found in the state’s energy efficiency portfolio standard, the establishment of a zero emission standard intended to support the environmental attributes of nuclear generation, new bill crediting/offset provisions for community renewable generation project subscriptions, the institution of a new \$250-per-kilowatt distributed generation rebate for new photovoltaic systems featuring a smart inverter, and, lastly, many changes to the state’s renewable energy portfolio standard (“RPS”) including renewable energy targets applicable to utility load for all retail customers and the required establishment of several new REC procurement programs. These include the Adjustable Block

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<sup>1</sup> 220 ILCS 5/16-111.5(b)(5)(ii)(C).

<sup>2</sup> 220 ILCS 5/16-111.5(b)(5)(ii)(D).

Program (“ABP”) for small-scale photovoltaic projects and the Illinois Solar for All (“ILSFA”) low-income solar incentive program. Generally speaking, the implementation of those reforms to the state’s RPS is the subject of the Plan.

Public Act 99-0906 did not *introduce* a renewable energy portfolio standard into Illinois law;<sup>3</sup> the Agency has been developing—and the Commission has been reviewing and approving—procurement plans addressing renewable energy resource procurements since 2008 and conducting renewable energy resource procurements since 2009.<sup>4</sup> Proposed IPA procurements were designed to meet statutory renewable energy resource procurement goals applicable to only *eligible* retail customer (i.e. default supply) load, and consisted only of competitive procurement events with bids within a product category selected on the basis of price. Changes to the Illinois RPS through P.A. 99-0906 have transitioned the state’s RPS to a streamlined, centralized planning and procurement process, with both RPS targets and available budgets determined on the basis of an electric utility’s load for retail customers, including non-default supply customers, with funding collected through a delivery services charge. The state’s approach to meeting its RPS targets is now addressed through the standalone Long-Term Renewable Resources Procurement Plan.<sup>5</sup>

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<sup>3</sup> The state’s original RPS was introduced concurrent with the establishment of the Illinois Power Agency through Public Act 95-0481 in 2007.

<sup>4</sup> Outside of the statutorily mandated 2012 “rate stability” procurements (under former PUA Section 16-111.5(k-5)) and the Agency’s Supplemental Photovoltaic Procurement process in 2015 under Section 1-56(i) of the IPA Act and the Commission’s Order in Docket No. 14-0651, those processes were conducted through the Agency’s annual planning and procurement processes under Section 16-111.5 of the PUA, with renewable energy resource procurement proposals included as a separate chapter of the annual plan.

<sup>5</sup> The exceptions to this statement are the Initial Forward Procurements conducted in 2017 and 2018 pursuant to Section 1-75(c)(1)(G)(i)-(ii) of the IPA Act, outside the auspices of the Initial Plan, and two years of separate ARES compliance requirements (2017-2018 and 2018-2019) for RPS compliance under Section 16-115D of the PUA and Section 1-75(c)(1)(B) of the IPA Act. Starting with the 2019-2020 delivery year, ARES compliance requirements for renewable energy resources have been completely phased out.

Those changes also include a shift in focus from the procurement of “renewable energy resources” (which may be RECs alone, or RECs and the underlying energy) to the procurement of only RECs, as well as a change in focus to the development and administration of “programs” in addition to the Agency’s traditional, familiar competitive procurement processes. These new programs include the Illinois Solar for All program required under Section 1-56(b) of the IPA Act, “which shall include incentives for low-income distributed generation and community solar projects [ . . . ] to bring photovoltaics to low-income communities in this State;”<sup>6</sup> the Adjustable Block Program, featuring a transparent schedule of blocks and REC prices to support REC procurement from distributed photovoltaic generation devices and community solar projects;<sup>7</sup> and the Community Renewable Generation Program to support community renewable generation projects from non-photovoltaic renewable generating technologies.<sup>8</sup> Through the Initial Plan’s authority, the Agency has spent around a year and a half developing and implementing these programs (after sketching the basic design of the programs through the development and approval process for the Initial Plan). The Agency’s proposals for the continued administration and structure of these programs is included in the Revised Plan.

Through P.A. 99-0906, the scope of the law’s renewable energy procurement targets has likewise changed. Prior to P.A. 99-0906, Section 1-75(c)(1) of the IPA Act required that eligible retail customer load be met with the procurement of renewable energy resources equal to an increasing percentage year-over-year culminating in 25% by 2025. The modified Section 1-75(c)(1) retains that “25% by 2025” paradigm, but applies these percentage goals to “each utility’s

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<sup>6</sup> 20 ILCS 3855/1-56(b)(2).

<sup>7</sup> See 20 ILCS 3855/1-75(c)(1)(K)-(M).

<sup>8</sup> See 20 ILCS 3855/1-75(c)(1)(N).

load for all retail customers”<sup>9</sup> and deprioritizes meeting that percentage goals behind funding existing (pre-P.A. 99-0906) contracts, funding the Illinois Solar for All program, and meeting quantitative targets for the procurement of RECs from new wind and new photovoltaic generating facilities.<sup>10</sup>

A more comprehensive (and lengthy) explanation of the governing law’s structure and requirements of the Plan can be found in Chapter 2 of the Revised Plan itself.

## **PROCEDURE**

As required by Section 16-111.5(b)(5)(ii)(B) of the PUA and Section 1-75(c)(1)(A) of the IPA Act, the Agency sought to coordinate the development of the Revised Plan “in conjunction with” the development process for its 2020 Electricity Procurement Plan, “to the extent practicable.” By law, the Draft version of the 2020 Electricity Procurement Plan was required to be published by August 15, 2019<sup>11</sup> – so the Agency developed its Draft Revised Plan throughout the summer and published it on the same date. As with the IPA’s annual procurement plan prepared pursuant to Section 16-111.5(d)(2) of the PUA, copies of the Draft Revised Plan were posted to the IPA’s website<sup>12</sup> and provided to each affected electric utility. The Agency initially determined<sup>13</sup> that by mirroring the annual Electricity Procurement Plan’s requirements,<sup>14</sup> a 30-day comment window followed by a 14-day cycle for the Agency to revise the Draft Revised Plan for

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<sup>9</sup> 20 ILCS 3855/1-75(c)(1)(B) (emphasis added).

<sup>10</sup> See 20 ILCS 3855/1-75(c)(1)(F).

<sup>11</sup> 220 ILCS 5/16-111.5(d)(2).

<sup>12</sup> See [https://www2.illinois.gov/sites/ipa/Documents/Draft%20Revised%20Plan%20-%20Summer%202019/Draft%20Revised%20LTRPP%20\(8-15-19\).pdf](https://www2.illinois.gov/sites/ipa/Documents/Draft%20Revised%20Plan%20-%20Summer%202019/Draft%20Revised%20LTRPP%20(8-15-19).pdf).

<sup>13</sup> See <https://www2.illinois.gov/sites/ipa/Documents/Draft%20Revised%20Plan%20-%20Summer%202019/Revised%20Plan%20Cover%20Letter%20%2815%20AUG%202019%29.pdf> (Cover Letter accompanying Draft Revised Plan).

<sup>14</sup> See 220 ILCS 5/16-111.5(d)(2).

filing was legally appropriate. However, after consultations with Commission Staff, the Agency determined that a better reading of the law would treat Section 16-111.5(b)(5)(ii)(B) (dealing with “the initial long-term renewable resources procurement plan and all subsequent revisions”) as controlling, meaning that a 45 day comment window (followed by a 21-day period for the Agency to revise the Draft Revised Plan) was required. Therefore, on September 3rd, the Agency announced<sup>15</sup> a new comment deadline of September 30, 2019. By law, comments were required to be made publicly available, and such comments were required to be “specific, supported by data or other detailed analyses, and, if objecting to all or a portion of the procurement plan, accompanied by specific alternative wording or proposals.”<sup>16</sup>

During the comment period, the Agency held public hearings for receiving public comment on the Draft Revised Plan in the service territory of each affected utility. The Agency’s hearings occurred on September 3rd in Chicago, September 4th in Moline (MidAmerican), and September 4th in Springfield (Ameren Illinois). No in-person comments were received at any of these public hearings.

21 sets of comments were received, from the following parties: AES Distributed Energy, Ameren Illinois, Ameresco, Borrego Solar, Carbon Solutions Group – Updated, Citizens Utility Board, Clean Grid Alliance, ComEd, Community Energy Solar, Cypress Creek Renewables, Environmental Defense Fund, Environmental Law & Policy Center and Vote Solar, ICC Staff, Illinois Solar for All Working Group, Joint Solar Parties, Natural Resources Defense Council,

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<sup>15</sup> See [https://www2.illinois.gov/sites/ipa/Documents/Draft%20Revised%20Plan%20-%20Summer%202019/Revised%20Plan%20Schedule%20Update%20\(3%20September%202019\).pdf](https://www2.illinois.gov/sites/ipa/Documents/Draft%20Revised%20Plan%20-%20Summer%202019/Revised%20Plan%20Schedule%20Update%20(3%20September%202019).pdf).

<sup>16</sup> 220 ILCS 5/16-111.5(b)(5)(ii)(B).

Shariff Shakir, SRECTrade, Summit Ridge Energy, Sunrise Energy Ventures, and Trajectory Energy Partners.<sup>17</sup>

The law provides that after the conclusion of the comment period, “the Agency may revise the long-term renewable resources procurement plan based on the comments received.”<sup>18</sup> Within 21 days after the conclusion of that period, the Agency was required to “file the plan with the Commission for review and approval,” creating a filing deadline of October 21, 2019.<sup>19</sup> The Revised Plan filed herewith for Commission review and approval reflects the revisions made by the Agency in response to, and consideration of, the comments received.

Objections to the Plan are due within 14 days after filing, and the “the Commission shall determine whether a hearing is necessary” within 21 days after the filing date.<sup>20</sup> The Act provides the Commission with 120 days to review the filed Plan and “enter its order confirming or modifying the initial long-term renewable resources procurement plan or any subsequent revisions.”<sup>21</sup> The law provides that the Commission “shall approve the initial long-term renewable resources procurement plan and any subsequent revisions, including expressly the forecast used in the plan and taking into account that funding will be limited to the amount of revenues actually collected by the utilities, if the Commission determines that the plan will reasonably and prudently

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<sup>17</sup> Comments are available here: <https://www2.illinois.gov/sites/ipa/Pages/2020-Draft-LTRRPP-Comments.aspx>.

<sup>18</sup> 220 ILCS 5/16-111.5(b)(5)(ii)(B).

<sup>19</sup> Id.

<sup>20</sup> 220 ILCS 5/16-111.5(b)(5)(ii)(C).

<sup>21</sup> Id.

accomplish the requirements of Section 1-56 and subsection (c) of Section 1-75 of the Illinois Power Agency Act.”<sup>22</sup>

## **COMMENTS ON THE DRAFT PLAN**

As referenced above, the Agency received 21 sets of comments on the Draft Revised Plan. The IPA genuinely appreciates all commenters’ efforts in providing feedback and found all comments provided to be helpful. The Draft Revised Plan specifically sought feedback from parties on certain issues for which the Agency was uncertain about the proper approach, and the IPA especially appreciates the feedback it received on those issues.

Given the volume of comments received and the breadth of the Plan itself, countless changes were made in response to comments. In this Petition, the Agency has attempted to highlight key areas in which the IPA modified its Draft Revised Plan in response to comments. Each of those changes are discussed further below, with select additional proposals *not* included in the filed Plan (or select sections of the Plan not otherwise revised) discussed thereafter.<sup>23</sup>

### **I. PROPOSALS ACCEPTED FOR REVISION/CHANGES FROM DRAFT PLAN**

#### **1) Community Solar Project Waitlist Management**

One of the key issues to be addressed in the revised Plan is how to address the existing waitlist for community solar projects—which greatly outnumbers the projects selected for REC contracts to date—and whether the existing ordinal waitlist produced through the prior lottery

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<sup>22</sup> 220 ILCS 5/16-111.5(b)(5)(ii)(D). As part of its Order, the law also provides that the Commission “shall also approve the process for the submission, review, and approval of the proposed contracts to procure renewable energy credits or implement the programs authorized by the Commission” pursuant to the approved Plan.

<sup>23</sup> Other portions of the Revised Plan as filed feature clarifications, corrections, or other minor changes, including additional detail or explanation where appropriate and updated figures and numbers where available, and this pleading does not attempt to outline all such changes to the Plan. The IPA will post a document comparison of the Revised Plan as filed for ICC approval vs. the Draft Revised Plan to its website ([https://www2.illinois.gov/sites/ipa/Pages/Renewable\\_Resources.aspx](https://www2.illinois.gov/sites/ipa/Pages/Renewable_Resources.aspx)).



process will govern project selection moving forward. The Agency has received comments on this issue dating back to workshops in June, and commenters have offered a wide array of proposals: from running a new lottery for every successive project selection, to scrapping the waitlist altogether and relying on a first-come, first-serve basis for new applications, to selecting new projects on the basis of new qualitative criteria such as earliest interconnection date or enhanced geographic diversity. The Agency appreciates the effort put into thinking through these issues by commenters and the creativity demonstrated through proposals.

No approach is a true panacea – any waitlist management approach will inherently favor or disfavor certain developers or project types, given the scarcity of funding – and the Agency has attempted to adopt an approach which provides transparency and certainty while addressing imbalances observed in project selection. As outlined in Section 6.3.3, the filed Plan’s approach thus has three primary parts: first, for any selected projects backfilling for projects already selected through the Program to date (but which fail to become developed), the Agency proposes to rely on the already-established ordinal waitlist of projects produced through its April 10, 2019 random project selection process (i.e., the lotteries). Eligible projects must maintain any applicable land use permits and site control.

Second, for 50% of the capacity of any new community solar block that may be opened if the Agency determines that adequate budget is available, this existing waitlist order would continue to be utilized with projects selected based on their present ordinal rank, with permits and site control again needing to be maintained. While the Agency appreciates arguments from parties seeking a new reordering of projects, the Agency believes this approach provides transparency and certainty to project developers through utilizing a known, existing ordinal selection.

Third, for the remaining 50% of the capacity of any new community solar block, the Agency proposes to take applications from projects that increase the variety of community solar locations, models, and options in Illinois. To date, community solar projects selected through the program have primarily been maximum-sized projects (2 MW) located in rural areas featuring the lowest possible land costs, thus making community solar less “community”-oriented than originally envisioned and creating imbalances in system size and host community type. With a goal of remedying these imbalances, the filed Plan proposes a 60-day application period (after a 60-day notice period prior to block opening) for applicant projects seeking a contract through this portion of community solar block capacity, with project selection based on the following criteria:

- Projects in townships with higher development density;
- Projects developed in response to a site-specific RFP issued by a municipality or community group (issued prior to the announcement of the opening of the block);
- Projects that commit to only serve subscribers in the same township (or adjacent township, for small townships) as the project.
- Projects under 100 kW in size or under 500 kW (AC).

The Agency believes that by adopting an approach in equal parts focused on selection through the a) existing ordinal waitlist and b) qualitative criteria intended to remedy imbalances observed to date, it has proposed a transparent, thoughtful, and appropriately policy-driven process for future community solar project selection.

## **2) Consumer Protection**

The filed Plan offers two primary changes on Consumer Protection versus the draft Plan. First, Section 6.9.1 of the filed Plan now proposes that “designees” of Approved Vendors – specifically, third-parties (i.e., non-Approved Vendors) that have direct interaction with end-use customers, including installers, marketing firms, lead generators, and sales organizations – register with the Adjustable Block Program, with those now-registered entities being listed on the program

websites. Given that many Approved Vendors operate exclusively through third-parties in customer-facing interactions, the Agency hopes that this requirement will add additional transparency into what entities are participating in the Adjustable Block Program and provide customers with more certainty about the legitimacy of market participants.

Second, new Section 6.13.4 of the filed Plan proposes a baseline process to be utilized for any disciplinary determinations. Although this process largely mirrors the process presently in place through the ABP Program Guidebook, including this process within the Plan will serve to codify certain rights and roles for enforcing program requirements and resultant discipline. While this process is likely not as robust as that sought by the Joint Solar Parties in comments (which included hearings and additional rights), it is essential to remember that the Agency is simply determining eligibility for state-administered incentives through any disciplinary determinations; no market conduct is being *generally* restricted through the suspension or revocation of Approved Vendor status. Instead, rather than exercising plenary regulatory authority, all that an Agency disciplinary determination restricts is the ability of an entity to participate in transactions that utilize state-administered incentive funding.

### **3) Project Applications and Contracting**

The Agency made several changes to the draft Revised Plan related to the process for project applications, contracting, and contract administration in both the ABP and ILSFA.

#### Batch Process

Carbon Solutions Group, the Joint Solar Parties, and SRECTrade suggested changes to the Initial Plan's process for submitting project applications bundled into batches, often noting that the process of waiting to have a whole batch of projects submitted for Commission approval can create bottlenecks. For the filed Revised Plan, the Agency is proposing the following revision of

the batch process: For a new Approved Vendor, a *first* batch of at least 100 kW of projects will still be required,<sup>24</sup> and 75% of the capacity of that batch must be verified to be approved. For any Approved Vendor that has already completed its 100 kW (ABP) or 50 kW (ILSFA) initial batch, projects may be submitted on a rolling basis, and as projects are verified, on a rolling basis in anticipation of the next scheduled Commission meeting, the Program Administrator will assign verified projects for that Approved Vendor into batches for recommendation to the Commission.

#### Collateral Withholding

Carbon Solutions Group, ComEd, the Joint Solar Parties, and SRECTrade expressed concerns with the timeline for an already-energized system to be deemed energized for purposes of requesting withholding a portion of the first REC payment as a substitute for posting collateral. The Revised Plan proposes that the option for energized projects to avoid posting collateral be eliminated. The Agency's rationale is that the existing process appears to encourage project developers to wait until a project is energized to apply the project into the Program, making it more difficult for the Program Administrator to monitor issues of technical design and consumer protection compliance. The option for any project to have its collateral withheld from the *last* REC payment (or only REC payment, for Small DG) has also been clarified: this provision is operative only when a letter of credit was initially posted as collateral; the payment withholding will then effect a release or reduction of the letter of credit.<sup>25</sup>

#### As-built Size Changes

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<sup>24</sup> For ILSFA this required initial batch is at least 50 kW (see Section 8.12.1).

<sup>25</sup> Id.

Carbon Solutions Group, the Joint Solar Parties, and SRECTrade expressed concern with limitations in Section 6.15.3 of the Initial Plan and draft Revised Plan, as well as the initial ABP REC Contract, around size changes for an as-built system relative to the size proposed in the Part I application. The Agency reiterates its logic from both the Initial Plan and draft Revised Plan, now contained in the filed Revised Plan, undergirding its restriction against increasing the number of RECs from a project's initial proposal: "[I]f a project's final system size is significantly larger than the planned system size, an increase in the payment due could present unexpected budget management challenges." For distributed generation in particular, developers are free to take advantage of the "system expansion" process described in Section 6.5.2 of the Plan (and in the Program Guidebook) if an opportunity for more solar capacity at a site arises.<sup>26</sup> The Agency does wish to note that under the standard ABP REC Contract published in January 2019, the lesser of the proposed (Part I) and as-built (Part II) project sizes is used for *both* contractual payments *and* annual REC delivery commitments.<sup>27</sup>

Additionally, the limitation on size changes to the greater of 25% or 5 kW (compared to the Part I proposed size) is found in the standard REC contract rather than in the Plan, and for already executed contracts, the Agency would be unable to immediately relax that restriction in February 2020 through any change to this Plan. However, the Agency intends to seek a relaxation or elimination of this requirement through the new contract development process for both ABP

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<sup>26</sup> The same is true of a second community solar project application at the same site, under Section 7.3.1 of the Plan, but ABP and ILSFA program capacity constraints in that project segment admittedly make this pathway less likely.

<sup>27</sup> See <http://illinoisabp.com/wp-content/uploads/2019/01/Final-REC-Contract-28-Jan-2019.pdf> (compare description of Delivery Year Expected REC Quantity in Section 6(c) of the Cover Sheet; discussion of as-built size changes in Sections 5(e)(ii)(B) and (iii)(B) of the Cover Sheet; and definitions of Contract Nameplate Capacity, Designated System Contract Maximum REC Quantity, and REC Purchase Payment Amount in Section 13(b) of the Cover Sheet).

and ILSFA described in Section 6.7 of the Plan; the new terms would apply to any contracts executed under the new standard contract form.

#### Project Contracting Clarifications

The Agency introduced additions to the filed Revised Plan to reflect program experience during the past twelve months and hopes that these clarifications will smooth the operation of the ABP and ILSFA and eliminate some ambiguities stemming from the Initial Plan.

- The Plan includes a provision that any collateral forfeited by an Approved Vendor under a REC contract shall be considered to be returned to the utility's Renewable Resources Budget (or, for an ILSFA REC contract featuring the IPA as counterparty, returned to the Renewable Energy Resources Fund).<sup>28</sup> This will maximize the availability of funds; also, Commission approval of this provision would constitute an "order of the Commission" allowing deposit into the RERF under the restriction of the IPA Act's Section 1-56(b-5).
- The Plan seeks Commission approval for the discretionary authority of a utility and an Approved Vendor under an ABP (or ILSFA) REC contract to execute an amendment to remove a project from the contract in exchange for a forfeiture of posted collateral when the Approved Vendor no longer wishes to develop the system.<sup>29</sup>

#### **4) Block Structure**

With regard to the structure of future Blocks 5 and beyond within the Adjustable Block Program, the Agency made certain clarifications found throughout Section 6.3 of the Plan:

- The Revised Plan provides that the Agency will retain discretion to allocate the 25% of capacity not allocated by law<sup>30</sup> to one of the three ABP project categories, similar to its April 3, 2019 discretionary capacity decision (creating new Block 4s) pursuant to the Initial Plan.
- The Revised Plan provides that any waitlists created for the Small DG and Large DG project categories would be used, first, to fill any space created by withdrawn projects in Blocks 1-4

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<sup>28</sup> Revised Plan at §§ 6.15.1, 8.12.1.

<sup>29</sup> Revised Plan at § 6.15.1.

<sup>30</sup> See 20 ILCS 3855/1-75(c)(1)(K)(i) to (iv).

(with the projects selected from the waitlist given Block 4 pricing) and then, if any additional Blocks are created for the DG categories, to fill the new blocks.<sup>31</sup>

- With regard to the block “soft close” of 7 days provided in the draft Revised Plan, the Agency declines to adopt comments made by Carbon Solutions Group suggesting that it return to the Initial Plan’s 14 days.<sup>32</sup> The 14-day soft close made budgetary planning difficult, as, in the Large DG category, the actual amount of ABP capacity procured at higher price levels turned out to be above expectations. If a project developer is not ready to secure a customer’s assent and an executed interconnection agreement within 7 days after learning that a block is in “soft close” state, it appears unlikely that an additional 7 days would be helpful.

### **5) Revenue Grade Metering**

In the draft Revised Plan, the Agency asked whether it should require revenue-quality metering for systems up to 10 kW, which would tighten the requirement of the Initial Plan that required revenue-quality metering for only systems above 10 kW if registered in PJM GATS. Carbon Solutions Group and SRECTrade provided comment opposing this proposal. In October 2019, M-RETS announced that as part of its revisions to its Operating Procedures, to be implemented as of January 1, 2020; the M-RETS Board has approved a change to provide that revenue-quality meters are no longer required. In light of this new information, the Agency has modified the proposed policy of the draft Revised Plan: generally speaking, only projects above 10 kW require an ANSI C.12 certified revenue-quality meter.<sup>33</sup>

### **6) Required Permits**

The draft Revised Plan modified the “non-ministerial permits” requirement of the Initial Plan and instead put forward a specific list of permits that would be required of any ground-mounted systems over 25 kW, including land use approval; State Historic Preservation Office

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<sup>31</sup> Revised Plan at § 6.3.3.2.

<sup>32</sup> Revised Plan at § 6.3.2.

<sup>33</sup> Revised Plan at § 6.12.2.

Phase I Archeological Study and clearance; Illinois Department of Natural Resources Ecological Compliance Tool Letter of Termination; and Phase I Environmental Site Assessment (or Phase II if recommended) clear of recognized environmental conditions. In response, several commenters opined that this list creates an onerous and perhaps impracticable burden for developers, particularly the Environmental Site Assessment.

The Agency considered this feedback carefully and elected to create a simplified set of requirements in the filed Revised Plan: for ground-mounted systems over 250 kW, a land use permit is required from the Authority Having Jurisdiction (“AHJ”) over the project (or if not required by the AHJ, a letter from the AHJ stating such). No other permits are required. However, the Revised Plan emphasizes that “failure to obtain permits is a developer risk and one which the Agency believes likely would not allow for the invoking of force majeure provisions applicable to failing to meet contractual obligations.” The Agency believes that this approach will ease the burden on both developers and the Program Administrator and create a more appropriate risk-reward balance for project developers.

#### **7) ILSFA Low-Income Distributed Generation Sub-Program**

The Agency made certain changes to the Low-Income Distributed Generation program structure in the Revised Plan.

- First, after reviewing comments from the ILSFA Working Group, the Agency extended the draft Revised Plan’s requirement that the owner of a residential multi-family building (two or more units) agree to maintain at least half the units as affordable housing (as defined in state law), to a ten-year commitment (from five years in the draft Revised Plan<sup>34</sup>).<sup>35</sup>

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<sup>34</sup> Under auspices of (though not specifically authorized by) the Initial Plan, the ILSFA Program has required a similar instrument with a five-year term for multi-family buildings applying to the Low-Income Distributed Generation sub-program for 2018-2019 and 2019-2020.

<sup>35</sup> Revised Plan at § 8.13.2.



- Second, after reviewing comments from the ILSFA Working Group regarding the prioritization of smaller projects, the Agency has decided to set aside 25 percent of this sub-program’s budget for projects at 1-4 unit buildings.<sup>36</sup> The Agency believes the 70% allocation for small projects in the Working Group’s recommendation is unrealistically large but has settled on a middle ground that should prevent larger projects from quickly eating up annual budgets.
- Third, in the draft Revised Plan the Agency raised a question of whether the “tangible economic benefits” required by the law (which the Initial Plan and draft Revised Plan interpreted to mean that 50% of net metering value should be passed on to tenants, net of fees) must be shared with *all* tenants of a qualified multi-family building, or just the verified low-income tenants. Following a review of stakeholder comments, the Agency has decided that these benefits should be extended to *all* residents in a building – either through reduced (or not raised) rents, or (in a building that is not master-metered) by providing tenants the opportunity to participate in net metering pursuant to the provisions of Section 16-107.5(l)(1)(B) of the PUA.<sup>37</sup> The Agency appreciates the logic of other proposals, including dividing a project on such a building into an ILSFA project and an ABP project; compensating the RECs differentially depending on the income status of residents; and requiring the landlord to restrict the benefits to just low-income residents, but considers each of them to have a high degree of administrative complexity, which could discourage participation in this sub-program.
- The Agency reviewed but chose not to implement a suggestion from the ILSFA Working Group that income verification for low-income households seeking to participate in the Low-Income Distributed Generation sub-program should have the same simplified affidavit-based option as for Low-Income Community Solar prospective subscribers.<sup>38</sup> The Agency believes that the installation of a solar array on a building’s roof at no upfront cost, an investment of many thousands of dollars, should not be predicated on such relatively light qualifications when the law has clear requirements.

## 8) ILSFA Hiring Requirements

The Agency made several changes to job trainee hiring requirements and other related provisions found in the draft Revised Plan.

- The Agency considered comments suggesting that the current set of job trainee hiring requirements by hours, increasing with each successive year of an Approved Vendor, is

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<sup>36</sup> Revised Plan at § 8.6.1.1.

<sup>37</sup> Revised Plan at § 8.6.1.2.

<sup>38</sup> Revised Plan at § 8.13.2.

onerous. With that in mind, the measurement of the “first year” for this purpose now starts with beginning of construction of the Approved Vendor’s first project participating in ILSFA.<sup>39</sup>

- In response to comments from the ILSFA Working Group, Approved Vendor annual reports within both the Adjustable Block Program and Illinois Solar for All will now include information on the use of graduates of job training programs and other information related to increasing the diversity of the solar workforce.<sup>40</sup> However, the Agency declines to adopt the suggestion of the Working Group that project selection in ILSFA sub-programs (or in ABP blocks, for that matter) should prioritize or carve out capacity for projects that choose to *voluntarily* report such information.
- The Agency declines to consider relaxing the job trainee hiring requirements for the Low-Income Distributed Generation sub-program, as one commenter suggested, as the requirement for vendors in that sub-program to hire job trainees for a “portion” of projects is found directly in the law, and the Agency does not believe the requirement of the Revised Plan that 33% of all such projects should include at least one job trainee<sup>41</sup> should be relaxed for any individual projects within the program or for all projects in the sub-program.

#### **9) ILSFA Environmental Justice Community Self-Designation**

The Agency has observed that some requests for Environmental Justice Communities (“EJC”) Self-Designation over the past five months have come from for-profit solar developers rather than exclusively from community-based organizations. The Initial Plan’s language that “[a] community ... may request consideration from the Agency to be included [as EJC]”<sup>42</sup> implied that requestors should be well grounded in the community, although the Agency has not attempted thus far to enforce such a condition. The Agency believes that making this requirement firmer will better serve the intent that community representatives speak to burdens borne by the people of that locale that may not obviously appear in a limited set of data. Therefore, the Revised Plan states

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<sup>39</sup> Revised Plan at § 6.10.

<sup>40</sup> Revised Plan at § 6.17.

<sup>41</sup> Revised Plan at § 6.10.

<sup>42</sup> Initial Plan at § 8.15.2.

that EJC Self-Designation requests must come from “community-based organizations, local units of government, or community residents.”<sup>43</sup>

### **10) ILSFA Low-Income Community Solar Project Initiative**

The Agency made certain changes to the treatment of the Low-Income Community Solar sub-program based on stakeholder feedback. These include:

- **Community-Based Organizations:** In the draft Revised Plan, the Agency proposed to clarify that public entities *cannot* be community-based organizations for purposes of establishing a Low-Income Community Solar project’s community stakeholder partnership under the law. Stakeholder comments were strongly against this position, and this advice is well-received. The Agency has attempted to adapt in large part a proposal made by the ILSFA Working Group to incorporate qualification requirements for a public entity to be a community-based organization.<sup>44</sup> The Agency considers the proposal for a “community member review board” for each such entity to be too complex to be administratively workable, however.
- **Anchor Tenants:** The Agency agreed with two recommendations from Trajectory Energy on this issue: first, that the selection prioritization that prized as a first criterion projects with *no* anchor tenant should be removed.<sup>45</sup> Upon reflection, the Agency agrees that anchor tenants are a good indicator of community involvement. Second, the Agency has reduced the minimum anchor tenant share (solely for selection prioritization, not as an absolute sub-program requirement) from 20% in the draft Revised Plan to 10%, as 20% of a full-size, 2,000 kW project is a 400 kW share, which could be beyond the capability of many potential anchor tenants. The Agency elected not to adopt a recommendation from the ILSFA Working Group that *multiple* anchor tenants be allowed, as the phrasing “an anchor tenant”<sup>46</sup> in the law appears to admit only the singular possibility.
- **Project Selection:** In response to concerns that the scoring scale in the first version of the Project Selection Protocol<sup>47</sup> is not granular enough, the Agency has resolved in the Revised Plan to expand the total points available.<sup>48</sup> The Revised Plan also clarifies that membership

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<sup>43</sup> Revised Plan at § 8.15.2.

<sup>44</sup> Revised Plan at § 8.6.2.

<sup>45</sup> Id.

<sup>46</sup> 20 ILCS 3855/1-56(b)(2)(B).

<sup>47</sup> See <https://www.illinoissfa.com/app/uploads/2019/05/ILSFA-Project-Selection-Protocol.pdf>.

<sup>48</sup> Revised Plan at § 8.12.2.

on a sub-program's waitlist for one program year will not grant any prioritization for a future program year's selection process.<sup>49</sup>

## **II. PROPOSALS NOT ACCEPTED FOR REVISION/ITEMS UNCHANGED FROM DRAFT PLAN**

While all comments were reviewed, analyzed, discussed, and considered, not all proposals were adopted. In the following sections, the Agency has chosen to highlight several issues unchanged from the draft Plan. Although the Agency did not adopt proposals seeking changes to these items, it genuinely appreciates the efforts made by parties in attempting to further improve the Agency's Draft Revised Plan.

### **1) Plan Approval Process**

Certain parties sought changes to the IPA's approach to Plan filing and Commission approval process given the potential for major energy legislation. Among them, the Joint Solar Parties continued to argue (as they had in comments submitted after the Agency's June workshops) that the IPA should file a "stay" immediately upon the commencement of this proceeding, while NRDC sought for the revised Plan to have "automatic triggers for reopening and revising it if new legislation is passed."

The IPA is unconvinced that legislative prospects warrant adjustment to the Commission's Plan approval process. The likelihood of major energy legislation becoming Illinois law while this Plan remains under Commission consideration appears low; recent comments by Illinois Governor J.B. Pritzker indicate that he does not expect such legislation to pass in the legislature's upcoming veto session.<sup>50</sup> Further, even if major energy legislation did pass, that legislation could itself

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<sup>49</sup> Id.

<sup>50</sup> <https://www.dailyherald.com/news/20191009/clean-energy-legislation-appears-unlikely-to-advance>.

address how the content of this proceeding should be handled—just as Public Act 99-0906 addressed what procurements should remain approved through the IPA’s 2017 Annual Procurement Plan.<sup>51</sup> Lastly, regardless of whatever “trigger” or other content the IPA included in its Plan, the Commission is responsible for determining the fate of that Plan while that Plan remains before the Commission. While the Agency could petition the Commission to reopen or revise the Plan, it does not need to include a “trigger” in its Plan to do so, and it would be unwise to commit to doing so “automatically” without first knowing the content of new legislation.

Consequently, the Agency will not request a stay of this proceeding or otherwise delay its progress, and the Plan contains no mandate for specific action should new legislation pass.

## **2) RPS Budget Prioritization**

As detailed throughout Chapter 3 of the Plan, expected RPS budget constraints limit the IPA’s ability to propose new procurements or expand existing programs through this revised Plan. Should funding become available, new Section 3.22 of the Plan sets forth the IPA’s proposed prioritization of programs or procurements to be funded.

While commenters were generally supportive of the IPA’s proposed approach, Ameren Illinois argued that the IPA should prioritize procurements from new utility-scale wind/solar generation rather than opening additional blocks of the Adjustable Block Program. While the IPA appreciates Ameren Illinois’s argument that utility-scale projects will provide the most RECs at the lowest cost, utility-scale renewable generation targets are presently expected to be met through 2025. The Agency believes that working to satisfy unmet statutory targets through programs that allow for direct participation from Illinois residents and businesses while providing continued

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<sup>51</sup> See 220 ILCS 5/16-111.5(q).

support to a customer-facing industry provides a more compelling case for how to utilize scarce resources. Indeed, no comments were received from developers of utility-scale projects seeking that change in prioritization through the draft Plan comment process. Thus, the IPA has chosen not to adopt Ameren Illinois's proposed prioritization.

### **3) REC Pricing**

The Agency considered both suggestions that the schedule of REC prices set in the Initial Plan is generally too low (with respect to, e.g., Small DG projects that have been relatively slow to submit applications, or community solar projects that allegedly may have a difficult time making project economics work) or too high (particularly with respect to community solar applications that were submitted at an order of magnitude 10 times the available program capacity). Ultimately, the Agency has determined that the 4% price decline with each new block as proposed in the Initial Plan should continue with any new ABP blocks that may be opened pursuant to this Revised Plan, as described in Section 6.3.1. The Agency believes that the predictability fostered by the 4% price decline regime should continue as market actors plan their activity. The Agency has also elected not to make any changes to the Illinois Solar for All REC pricing regime, which has thus far encouraged a healthy volume of applications in the Low-Income Community solar and Non-profits/Public Facilities sub-programs for 2018-2019 and 2019-2020. Although the pace of project applications in Low-Income Distributed Generation has been slower, the Agency considers this stage of the program, only five months after project applications first opened, premature to adjust prices for that sub-program.

Regarding the small subscriber adder for community solar projects in the ABP and ILSFA as discussed in Section 6.5.3 of the Plan, the Agency has elected to maintain its position from the Draft Revised Plan that would combine the “over 50% to 75% small subscriber” and “greater than

75% small subscriber” ranges from the Initial Plan into just one category – “50% or greater small subscriber.” In addition to the cost-based discussion contained in Section 6.5.3 of the draft Revised Plan, the Agency believes that the existing 50% small subscriber commitments made by nearly every community solar project that entered the April 10, 2019 lottery constitutes sufficiently “robust participation opportunities” for small subscribers, and no further incentive for project developers is needed.

#### **4) Spot Procurements**

Only one party (Carbon Solutions Group) sought for the Agency to reintroduce “Spot Procurements” (i.e., annual procurements used to meet Section 1-75(c)(1)(B) of the Act’s percentage-based RPS targets through short-term contracts for the delivery of RECs that may not be from “new” renewable generating facilities, originally proposed in the Agency’s filed Initial Plan but stricken through the Commission’s Order in Docket No. 17-0838) into its Revised Plan. Other parties noted support for Revised Plan’s approach of focusing all available budget on the procurement of RECs from “new” facilities, thus leveraging all available resources to help develop new renewable energy projects.

Consistent with the Commission’s Order in Docket No. 17-0838 and in recognition of the myriad benefits associated with new project development, the filed Plan proposes only programs and procurements intended to incent new renewable energy generation. However, the Agency notes that given the expected sunset of the statutory authorization to rollover prior-collected funds beyond the 2020-21 delivery year (as explained in Section 2.3.4 of the Plan), the Plan’s budget projections forecast a substantial refund of funds in the first year after the rollover sunsets. Absent statutory change, expenditures on RECs through Spot Procurements made through mid-2021 would not come at the expense of facilitating new renewable energy generation, but instead

at the expense of an eventual refund of unspent Renewable Resource Budget collections to customers. Nevertheless, given the likelihood of statutory change by mid-2021, the uncertainty around project energization (and thus budget impact) timelines, and the vociferous prior objections to Spot Procurements, the Agency believes that the most prudent approach is not to propose Spot Procurements in its Revised Plan.

### **5) PPA Disclosure Form**

In comments, Ameren Illinois argues that under the Commission’s Order in Docket No. 17-0838, certain “offending material” produced by the IPA referencing power-purchase agreements (“PPA”) must be removed from the IPA’s program websites.<sup>52</sup> By way of background: in August of 2019, Ameren Illinois contacted the IPA’s ILSFA Program Administrator claiming that the ILSFA customer disclosure form was posted inconsistent with the Commission’s Order in Docket No. 17-0838. The IPA first published an Adjustable Block Program PPA-specific customer disclosure form for public comment in October of 2018<sup>53</sup> (and ComEd, among others, offered extensive comments on the form), and again later published an ILSFA PPA-specific customer disclosure form (based in part on the ABP form) for public comment in April 2019;<sup>54</sup> in neither case did Ameren Illinois offer comments on those forms or attempt to contact the IPA about their development or use. The Adjustable Block Program disclosure forms have been in use since late December 2018, and the Illinois Solar for All disclosure forms since May 2019.

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<sup>52</sup> In comments, Ameren references a sample PPA financing agreement produced by SEIA; however, in conversations with Ameren, Ameren’s concerns have been focused on the IPA’s PPA customer disclosure form. Additionally, approval of the Agency’s customer disclosure forms – and not any sample contracts produced by industry trade associations – is what is being sought through this filing.

<sup>53</sup> See <http://illinoisabp.com/2018/10/03/approved-vendor-requirements-and-distributed-generation-consumer-protection-draft-documents-released>.

<sup>54</sup> See <https://www.illinoissfa.com/announcements/2019/04/consumer-protection-guidelines-documents>.



The IPA has not made changes to the Plan to reflect Ameren Illinois’s complaints for at least the following reasons. First, Ameren’s arguments mischaracterize the Commission’s Order in Docket No. 17-0838. In that proceeding, Ameren Illinois simply sought to avoid any confusion between parties with competing interpretations by eliminating references to power purchase agreements *within the IPA’s Long-Term Renewable Resources Procurement Plan*.<sup>55</sup> The Commission’s Order adopted language originally authored by ELPC – a party which provided extensive comments explaining how PPAs were legally authorized<sup>56</sup> – over no party’s objections, as neither the IPA nor ELPC nor the Joint Solar Parties thought that whether the Plan referred specifically to PPAs or instead used generic language referencing “financing arrangements” was consequential. In no filing did Ameren Illinois argue that the IPA could not produce supporting materials (such as its customer-facing disclosure forms, which are designed to provide customers with essential information about given transaction types) tailored to advise customers about PPA financing. This made Ameren Illinois’s arguments raised for the first time late this summer that the IPA is now operating inconsistent with the Commission’s Order in Docket No. 17-0838 all the more confusing and unexpected.

Second, there is a compelling argument that PPA financing for distributed generation projects is indeed legally permitted without an entity being required to register as an alternative retail electric supplier. ELPC offered that argument in detail in Docket No. 17-0838, specially citing to an exception in Section 16-102 of the PUA’s definition of “alternative retail electric supplier” which it understood to expressly allow for PPA financing. Notably, Ameren Illinois

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<sup>55</sup> See Docket No. 17-0838, Verified Reply to Responses of Ameren Illinois Company dated January 25, 2018 at 3-4.

<sup>56</sup> See Docket No. 17-0838, Verified Response of the Environmental Law & Policy Center dated January 11, 2018 at 20-21.

provided no substantive response to this legal argument in that proceeding, instead offering a Reply suggesting neutral language intended to satisfy all parties' concerns. Nor has Ameren sought any declaratory decision by the Commission or enforcement action consistent with its view. Nor has Ameren sought to reopen Docket No. 17-0838 under the belief that the IPA or any other party was noncompliant with that Order. For Ameren to now claim that the IPA is operating inconsistent with some settled legal determination in its favor is unwarranted.

Third, even if Ameren's legal theory was correct and PPA activity required certification as an alternative retail electric supplier, PPA financing would not be prohibited; instead it would just require ICC certification of the entity offering PPA financing as an alternative retail electric supplier. Stated differently, a solar project developer could still utilize PPA financing; that entity would just need to complete an additional step first—and as the IPA does not regulate the retail sales of electricity, it is entirely possible that some developers already have. This makes Ameren's concern about the IPA's PPA disclosure form even more curious: if, even under Ameren's interpretation, PPAs are indeed legally available for use (albeit conditional upon ARES certification), then why shouldn't the IPA produce customer disclosure forms advising customers of the rights, responsibilities, and risks associated with a PPA transaction?

Lastly, Ameren's comments fail to acknowledge the IPA's responsibilities in consumer protection. The IPA is not the arbiter of whether PPA financing constitutes retail electric sales or requires certification as an alternative retail electric supplier. Instead, the IPA produces disclosure forms and other materials to provide consumers with essential information to help them understand unfamiliar and complex transactions. To do so, the IPA's program materials must mirror the market. If solar project developers are utilizing PPAs to finance the development of distributed

generation, then the IPA's responsibility is to produce supporting materials empowering Illinois residents and business to make informed decisions before entering into those transactions.

#### **6) Adjacent State Criteria**

Despite it having been a contested issue in the original Plan approval proceeding, no party objected to the draft Revised Plan's methodology for applying Section 1-75(c)(1)(I)'s adjacent state project participation criteria or its proposed scoring threshold (60 points) applicable to qualifying adjacent state projects, both of which remain generally unchanged from the Initial Plan approved by the Commission in Docket No. 17-0838. Thus, no adjustments were made to the adjacent state criteria from the draft Revised Plan to the filed Revised Plan.

#### **7) Municipal Aggregation for Community Solar Subscriptions**

In the draft Revised Plan, the Agency stated its position that, first, municipal aggregation of community solar subscriptions is likely not permitted under Section 1-92 of the IPA Act, and second, that even if such a program were legally permissible, subscribers participating under such an arrangement must still be required to review and execute individual subscription disclosures as part of participation in the ABP. As the Agency is not an authoritative legal arbiter of the first question (although it has "assistance" responsibilities toward government entities under Section 1-92(g)), only the second issue is clearly within the Plan's scope.

ELPC and Vote Solar in comments supported the concept of municipal aggregation of community solar subscriptions and recommended that the IPA convene a workshop on the topic. As the Agency continues to believe that the municipal aggregation approach is not legally permissible, the Agency prefers to not convene such a process until some authoritative adjudicatory body – whether the Commission or a general court – pronounces it acceptable. Therefore, the Agency did not amend this section of the Plan.

## **8) Portability and Transferability of Subscriptions**

The draft Revised Plan stated the Agency's view that some limited, reasonable restrictions on the "portability" and "transferability" of community solar subscriptions (two features that are required by the IPA Act's Section 1-75(c)(1)(N)) will be permitted for community solar providers participating in the ABP or ILSFA. These possible restrictions include an allowance that the newly located subscription be appropriately sized for the consumer's load, and the community solar provider's right to check the new subscriber's creditworthiness. Additionally, in the ensuing time since publication of the draft Revised Plan, the Agency published a new "Frequently Asked Question" [and corresponding answer] on its consumer-facing Illinois Shines website<sup>57</sup> stating this policy position, thus addressing the suggestion of the Joint Solar Parties.

The Agency disagrees with the contention of Ameren Illinois that the Plan may introduce no requirements or discussion about portability and transferability; while the law and utility tariffs contain baseline requirements and processes, the ABP or ILSFA may generally introduce additional consumer protection requirements for vendors seeking to avail themselves of a state incentive program. With regard to the ILSFA Working Group's comments opposing any allowance of portability/transferability restrictions that are "so stringent as to render the portability and transferability meaningless," the Agency believes that a requirement of unlimited portability/transferability could cause administration problems for the Programs if each new subscriber enrollment becomes a point of lengthy contention. Finally, regarding the suggestion of ELPC/Vote Solar that the eligibility requirements in place at the time of a subscriber's enrollment should apply in the future to any potential transferee of that subscription, the Agency notes that

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<sup>57</sup> See <http://illinoisshines.com/faq>.

this could create a complex regime where different subscriptions are subject to different transfer requirements at any one time, making administration confusing difficult for the providers, utilities, Agency, and even the would-be transferring subscriber.

### **9) REC Deliveries**

Regarding the proposal made by some stakeholders (Carbon Solutions Group and Joint Solar Parties) that Approved Vendors should have the option to make up REC delivery shortfalls for two additional years beyond the 15-year contractual delivery term, the Agency believes the law's repeated references to delivery of "all renewable energy credits generated by the system during the first 15 years of operation"<sup>58</sup> entails that Approved Vendors be held to a commitment to deliver the paid-for RECs during a 15-year period. Although the Agency is sympathetic to the possibility of bad weather or other impediments to generation, the option to bank "surplus" RECs contained in the Initial Plan, Revised Plan, and REC Contract provides some cushion for Approved Vendors to balance lean years with fat years within the 15-year contractual delivery term.<sup>59</sup> Additionally, Approved Vendors may choose a custom capacity factor during project application (and update it downward when the project is built) to minimize the risk of under-deliveries.

### **10) ILSFA Community Solar Pilot Procurement**

The Agency declined to adopt the recommendation of the ILSFA Working Group to change the bid evaluation for the Illinois Solar for All Low-Income Community Solar Pilot procurement from one based solely on price to a weighted scoring system that would also include considerations for location, level of participant savings and MWBE participation. Instead, the Agency has made

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<sup>58</sup> 20 ILCS 3855/1-56(b)(3) (ILSFA); 20 ILCS 3855/1-75(c)(1)(L)(ii) (ABP).

<sup>59</sup> See Initial Plan and Revised Plan at § 6.16.2; ABP REC Contract at Cover Sheet §§ 6(d), (g), (h) and at Exhibit G.

clarifying edits to Section 8.6.4 to emphasize that subscribers must receive at least 50% savings, that hiring plans should contain discussion of any MWBE commitments, and that the project must be located within the program territory of the partner community-based organization. The Agency maintains its position taken during the approval of the Initial Plan that having strong upfront application requirements and then competitive price-based bidding for qualified projects is the best way to create “fair and equitable guidelines.” The Agency is concerned that a scoring system that relies on commitments related to subscriber savings levels or MWBE hiring are only enforceable through contractual penalties or cancellation, and commitments made, but not lived up to could unfairly exclude other bids from being selected. Furthermore, the Agency believes that the requirement for a partnership with a community-based organization and requirement that subscribers be located within the area that organization offers programs and services will naturally encourage projects in more populated areas.

The Agency also declined to adopt the ILSFA Working Group’s recommendation that that the definition of a subscriber for the Low-Income Community Solar Pilot procurement be broadened from only being low-income residential subscribers and community-based organizations to instead allowing the bidder to define their targeted subscribers and how there will be resulting economic benefits. The Agency believes that maximizing low-income residential participation in these projects is the most direct way to ensure that economic benefits flow directly to community members.

As mentioned in the Plan, “[t]he Agency is planning a procurement for Low-Income Community Solar Pilot Projects in late 2019 [as approved in the Initial Plan] ....The Agency will consider changes to the requirements for bidder participation based upon a review (including the opportunity for stakeholder input) of the results of that first procurement[.]” This review will allow

the Agency to learn and adapt from the first procurement, rather than making changes to the procurement design before there is any evidence those changes are needed.

### **11) ILSFA Utility Program Budgets**

Two commenters (Ameresco and the ILSFA Working Group) addressed the Agency’s discretion to re-allocate ILSFA utility budgets (provided under Section 1-75(c)(1)(O) of the IPA Act) from one sub-program to another, as provided by Section 8.4.2 of the draft Revised Plan.<sup>60</sup> One commenter advocated using the Revised Plan to definitively re-allocate utility funds from Low-Income Distributed Generation, while the other commenter, concerned about protecting Low-Income Distributed Generation funds, presented three rule-based options that would constrain the Agency’s authority to exercise re-allocation discretion. The Agency highlights these diametrically opposed perspectives from sophisticated parties as a reason to think that the correct course of action is not clear; thus, the Agency has resolved to retain its full discretion, based on its monitoring of Program performance, for re-allocation of utility budgets as in the Initial Plan and draft Revised Plan.<sup>61</sup>

## **PROCESS & SCHEDULE**

As referenced above, the law provides that “[w]ithin 14 days after the filing of the initial long-term renewable resources procurement plan or any subsequent revisions, any person objecting to the plan may file an objection with the Commission”—leaving a deadline for Objections of November 4, 2019. The law also provides that “[w]ithin 21 days after the filing of

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<sup>60</sup> The Agency already exercised the same discretion pursuant to Section 8.5 of the Initial Plan as part of the 2018-2019 Project Selection Protocol; see <https://www.illinoissfa.com/announcements/2019/08/selected-projects-for-program-year-2018-2019>.

<sup>61</sup> Revised Plan at §§ 8.4.2, 8.5.

the plan, the Commission shall determine whether a hearing is necessary.” That 21-day deadline falls on November 11, 2019, which is a state holiday (Veteran’s Day), so November 12th is the hearing determination deadline.

While 120 days for Commission consideration is more than the Commission is afforded for the consideration and approval of the Agency’s annual procurement plan, it still leaves parties with an expedited timeline. Further complicating this timeline are potential challenges with the availability of counsel over the holiday period and other state holidays in January and February of 2020. In recognition of these challenges, and in collaboration with Staff of the Illinois Commerce Commission, the Agency developed the following proposed schedule to (hopefully) accommodate the needs of the hearing officers and any interested parties:

<b>FILING DATE:</b>	<b>Monday, October 21, 2019 (statutory)</b>
<b>OBJECTION DUE DATE:</b>	<b>Monday, November 4, 2019 (statutory)</b>
<b>HEARING DETERMINATION DEADLINE:</b>	<b>Tuesday, November 12, 2019 (statutory)</b>
<b>RESPONSES TO OBJECTIONS:</b>	<b>Tuesday, December 3, 2019</b>
<b>REPLIES TO RESPONSES:</b>	<b>Tuesday, December 17, 2019</b>
<b>EVIDENTIARY HEARING (IF NECESSARY):</b>	<b>[sometime in this timeframe]</b>
<b>PROPOSED ORDER:</b>	<b>Wednesday, January 15, 2020</b>
<b>BRIEFS ON EXCEPTION:</b>	<b>Friday, January 24, 2020</b>
<b>REPLY BRIEFS ON EXCEPTION:</b>	<b>Friday, January 31, 2020</b>
<b>“DROP DEAD” DATE:</b>	<b>February 18, 2020 (statutory)</b>

Based on the comments received through the formal comment process, the Agency does not believe an evidentiary hearing is necessary for the consideration and approval of the Plan.

In addition to the undersigned attorneys, the IPA requests that the following individuals be placed on the service list for the resulting docketed proceeding, each of whom agree to electronic service pursuant to Title 83, Section 200.1050 of the Illinois Administrative Code (the Commission’s Rules of Practice):



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Lastly, the Agency notes that its filing includes only Appendices A, B, F, and G; this is because Appendices C (a review of other programs), D (the REC pricing model description), and E (the REC pricing model itself) are either stale or have not been revised from the Agency's Initial Plan. To maintain the integrity of the original Appendix labels (which are referenced within the Plan itself and in supporting documents developed since the Initial Plan's approval), the Agency has filed only those Appendices featuring revisions while maintaining the original lettering designations. If necessary for reference, Appendices C, D, and E can be observed here:

<https://www2.illinois.gov/sites/ipa/Pages/2018-Long-Term-Renewable-Appendices.aspx>.

**CONCLUSION**

The Illinois Power Agency’s Revised Long-Term Renewable Resources Procurement Plan is consistent with the requirements of Sections 1-56(b) and 1-75(c) of the Illinois Power Agency Act, Section 16-111.5(b)(5) of the Public Utilities Act, and any other relevant portions of the Public Utilities Act and the IPA Act. As the Revised Plan “will reasonably and prudently accomplish the requirements of Section 1-56 and subsection (c) of Section 1-75 of the Illinois Power Agency Act,” it should be approved by the Commission. The IPA reserves the right to file responsive comments and any corresponding edits to the Revised Plan, and respectfully requests the Revised Plan’s approval.

Dated: October 21, 2019

Respectfully submitted,

Illinois Power Agency

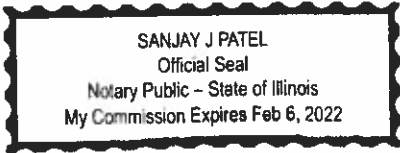
By:   /s/ Brian P. Granahan  

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STATE OF ILLINOIS     )  
  )  
COUNTY OF COOK     )

**VERIFICATION**

Anthony M. Star, being first duly sworn, on oath deposes and says that he is the Director for the Illinois Power Agency, that the above Verified Petition has been prepared under his direction, he knows the contents thereof, and that the same is true to the best of his knowledge, information, and belief.



  
\_\_\_\_\_  
Anthony M. Star

Subscribed and sworn to me  
This 21st day of October, 2019

  
\_\_\_\_\_

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

Illinois Power Agency )  
 )  
Petition for Approval of the IPA’s Revised ) ICC Docket No. 19-\_\_\_\_\_  
Long-Term Renewable Resources Procurement )  
Plan Pursuant to Section 16-111.5(b)(5)(ii) )  
of the Public Utilities Act )

**NOTICE OF FILING**

Please take notice that on October 21, 2019, the undersigned, an attorney, caused the Illinois Power Agency’s Petition for Approval of the IPA’s Revised Long-Term Renewable Resources Procurement Plan Pursuant to 220 ILCS 5/16-111.5(b)(5)(ii), the Revised Long-Term Renewable Resources Procurement Plan itself, and the appendices thereto to be filed via e-Docket with the Chief Clerk of the Illinois Commerce Commission in a new proceeding:

October 21, 2019

/s/ Brian P. Granahan  
Brian P. Granahan