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Response to Comments on Proposed Project & Participant Eligibility

The proposed Participant and Project Eligibility and Verification requirements were presented by the Illinois Power Agency (“Agency” or “IPA”) through its Program Administrator, Elevate Energy, on February 25, 2019 with a request for comments due on March 8, 2019. Comments have been received and posted to the Illinois Solar for All (“ILSFA”) Program website (www.Illinoissfa.com). The following represents a summative response to comments and how those comments may be incorporated into the final requirements and associated documents.

The content summarized here represents comments captured during the stakeholder feedback session facilitated on February 25, 2019 via in-person presentation and webinar, as well as individual comments submitted to the Program Administrator from

nine organizations during the commenting period. Comments have been summarized and categorized into the following topics:

- ▶ Critical Service Providers (“CSP”) Categories
- ▶ Non-Profit and Public Facilities (“NP/PF”)
- ▶ Low-Income Community Solar Participation
- ▶ Issues Impacting Income Verification
- ▶ Process and Operational Issues

Critical Service Providers Categories

Comments recommended that additional categories of organizations be included in the Critical Service Providers definition, including: Libraries, Domestic Violence Help Centers, Law/Legal Groups (Pro-Bono or Low-Income focused), Pregnancy Crisis Centers, Student/Teacher Education Centers, Transitional Housing Centers, and Women's Development Centers. Comments pointed out the need to provide further clarity of the various types of providers captured by each category.

RECOMMENDATION : The Program Administrator and the Illinois Power Agency agree with the addition of: Libraries and Law/Legal Groups (Pro-Bono or Low-Income focused) to the definition of Critical Service Provider. The other proposed categories largely fall into existing categories of Critical Service Providers. To the extent that they do not, requests to consider additional potential Critical Service Providers will be considered on a case-by-case basis at the project level if they fulfill the spirit of the law.

Non-Profit and Public Facilities

- ▶ Several comments submitted disagree with the proposal that Non-Profit and Public Facilities must be in Low-Income and/or Environmental Justice Communities. Suggestions were made that a NP/PF located outside or adjacent to Low-Income and/or Environmental Justice Communities but serving those communities should be included. Additional comments support the proposed locational requirement.

RECOMMENDATION : The Program Administrator and the IPA agree that non-profit and public facilities serving these communities, but not located within them, provide important services and may meet the spirit of the law. However, the annual allocation of funds for the Non-Profit/Public Facilities sub-program is quite small - to a degree that prioritizing funds to clearly targeted communities is justified. As such, the proposed

requirement will be maintained, with the intent that the locational requirement targets funds to facilities that impact Low-Income and/or Environmental Justice Communities more directly and are institutions not only serving but within these communities. The IPA may revisit this requirement as part of the Plan update later this year.

- ▶ A comment was submitted supporting a requirement that Non-Profit and Public Facilities be both CSPs and demonstrate community engagement.

RECOMMENDATION: The Program Administrator and the IPA recognize that further narrowing the definition by requiring both Critical Service Provider and community engagement requirements would help to more directly target funds; however, the Long-Term Renewable Resources Procurement Plan (“Plan”) specifically requires that either path be allowed, e.g. to be a CSP or to demonstrate community engagement. Therefore, those two paths of eligibility will remain.

- ▶ A comment was submitted recommending that both of the two means of demonstrating community engagement (1. a narrative summary of engagement prior to project submission and 2. listing community organizations partnered with prior to project submission) be required rather than a choice between either one.

RECOMMENDATION: Participants for the NP/PF sub-program must either be a CSP or provide a narrative and list of partner organizations to demonstrate community engagement.

Community Solar Participation

As an initial matter, the Agency and Administrator note that many of the issues raised by commenters under the topic of Low-Income Community Solar also are addressed by the Draft REC Contract for Illinois Solar for All released on March 25, 2019. A [stakeholder process](#) to refine and finalize this contract is underway; commenters have been encouraged to submit comments in that stakeholder process as well. The below responses represent the Agency and Administrator’s tentative position as of May 1, 2019, but the final resolution of several of these issues will be made concurrent with the REC Contract stakeholder process, which includes developing a consensus among the three electric utilities and the Staff of the Illinois Commerce Commission, in addition to the Agency and Administrator.

- ▶ Comments recommended allowing multiple NP/PF anchor tenants or single NP/PF anchor tenants with multiple meters under a single account to combine up to 40% of capacity.

RECOMMENDATION: Allowing multiple anchor tenants is not consistent with the provisions of the Long-Term Plan or Section 1-56(b)(2)(A) of the IPA Act. In both cases anchor tenant is used in the singular form. Any one subscriber is limited to not more than 40% of the community solar project's capacity. As clarification, at a given location the subscription is considered at the account level, so it would be allowed to have multiple meters under a single utility account count as one subscription for the anchor tenant. This single account represents a single tenant. To the extent the comment suggests multiple premises of a company or organization combining to make up an anchor tenant, the Program Administrator and the Illinois Power Agency also believe this is not consistent with the Plan or the Act.

- ▶ Several comments opposed allowing participation in *any* form by non-low-income subscribers (including as non-anchor subscribers whose shares of REC production are uncompensated by ILSFA).

RECOMMENDATION: While the spirit of the law and Plan certainly place the focus of ILSFA onto low-income communities and low-income households, the Program Administrator and the IPA recognize that some flexibility in business and subscriber models needs to be maintained to allow for unforeseen situations that meet the intent of the program. The Illinois Power Agency and ILSFA Program Administrator will not limit a Low-Income Community Solar project to just low-income residential subscribers. But, the requirements for subscribers will provide flexibility for the market and ensure ILSFA funds are directed towards qualified participants. These requirements include:

- Residential subscriptions of non-low-income households (outside the single anchor tenant) will be allowed, but RECs generated from those shares will not be sold to utilities/IPA or receive ILSFA REC payments.
- A single NP/PF anchor will receive the ILSFA REC value.
- A single non-NP/PF (for-profit commercial entity or non-low-income household) anchor will be allowed but will receive REC payments valued at the current Adjustable Block Program price in the corresponding utility group where the project is located rather than at the ILSFA level.

Further, ongoing annual reporting will require verification of subscriber shares for each subscriber category and require clawback/drawdown on collateral if shares do not meet contract requirements established at the year-one milestone.

The IPA will be revising the Long-Term Plan that guides the Illinois Solar for All Program during the summer of 2019. That process will involve multiple opportunities for stakeholders to provide feedback, comments, and proposals to the IPA. If stakeholders are interested in other approaches to accommodating non-profits and public facilities in the low-income community solar sub-program, that will be an opportunity to be heard. Revisions to the Long-Term Plan will need to be consistent with the law and are subject to approval by the Illinois Commerce Commission through a litigated proceeding in the fall of 2019.

- ▶ Comments recommended that in order to not unfairly punish projects that experience inopportune subscriber turnover for the time between energization and first-year annual reporting, that the projects be allowed leeway of 3% for a one-year period prior to invoking any clawback or drawdown of collateral provisions.

RECOMMENDATIONS : The Illinois Power Agency and Program Administrator recognize that market circumstances may present inopportune or temporary fluctuations in subscriber shares. The Agency and Program Administrator (in concert with the three electric utilities, the ICC Staff, and the Agency's Procurement Administrator) are giving strong consideration to the idea that if less than 50% of a project's non-anchor capacity is subscribed by low-income residential customers at the end of the first contractual delivery year, the project shall have three additional months to cure the deficiency in order to avoid removal from the REC contract.

Requirements contained in the REC contract will allow for a safe harbor of 90% total subscription levels as a percent of physical project capacity (counting the anchor share and low-income residential subscriber shares) in order to avoid a collateral draw for a subscription shortfall in any delivery year following the first delivery year. Additionally, the Agency and Program Administrator (in concert with the three electric utilities, the ICC Staff, and the Agency's Procurement Administrator) are giving strong consideration to the proposal that projects be allowed to deviate in a delivery year (starting with the second contractual delivery year) by 3 percentage points from the total contracted subscription shares of the anchor subscriber and low-income residential subscribers, along with the additional idea that no collateral draw will be made for that delivery year

only if the project meets its contracted subscriber shares for the *following* delivery year. If the project falls short in the following delivery year, then a collateral draw would be made in each of those two delivery years. The Agency and Program Administrator included these new proposals discussed in this and the prior paragraph in the Second Draft (Utility) REC Contract and Draft (IPA) REC Contract published April 26, 2019 and seek further stakeholder comment (due May 3, 2019).

Additionally, under current REC Contract drafts, there will be a cure period after any annual report (starting with the report following the second contractual delivery year) in the event that an anchor subscriber was lost during the delivery year, to bring subscriber shares back in line with contract requirements (namely, low-income residential subscribers equaling at least 50% of non-anchor project capacity).

Issues Impacting Income Verification

A comment submitted regarding counting adult students living away from the home or temporarily absent family members as members of the household for the purpose of calculating the household income suggested not including those two categories of family members in the overall household size.

RECOMMENDATIONS : For purposes of income verification, a clear definition of who is considered a household member will be provided in the vendor manual to be released before program launch. In response to the above comment, all temporarily absent adults are counted, as well as their income. The Program Administrator and the IPA believe that in more situations than not, counting the temporarily absent family member will serve to benefit potential participants. Additionally, we strive to create a streamlined process that minimizes caveats.

Process and Operational Issues

- ▶ Comments were in favor of easing the complexity of the enrollment and verification process, maintaining confidentiality, requiring data collection/handling plans from approved vendors, and creating a streamlined database with other state agencies to consolidate the verification process.

RECOMMENDATION : The Program Administrator and the Illinois Power Agency are seeking every opportunity to make the processes efficient and the sub-programs accessible. To that end, the enrollment and verification processes are designed to request as little paperwork as possible. Additionally, confidentiality and data control

are addressed by minimizing the collection of sensitive information and requiring the destruction of sensitive data on devices within seven days of when the documents are uploaded. The Program Administrator will retain information digitally in compliance with state document retention requirements. The Program Administrator and the IPA agree that a streamlined database for verification processes would be ideal and conversations are underway with state agencies. A date for when such a database would be created is yet to be determined.

- ▶ Comments addressed concerns over how best to ensure properties served by ILSFA continue to serve low-income households over the 15 years of the REC contract. For master metered multifamily buildings, suggestions were made to periodically re-verify household income levels. For Low-Income Community Solar projects, recommendations included rules that claw back incentives if low-income household shares fall below required levels.

RECOMMENDATION: While provisions related to Low-Income Community Solar in the REC Contract provide a clear mechanism to ensure that long-term subscriber shares meet required levels based on the requirements established at first-year annual reporting, the Low-Income Distributed Generation program does not have the same requirement or mechanism. Establishing requirements for annual or periodic income verification for multifamily properties can create a significant burden on program administration and budgets. For this reason, the program will use an affidavit approach to ensure that housing remains affordable, where the building owner commits to a minimum of five years of affordable rent.

- ▶ Comments opposed the Lottery process as a means of selecting projects, citing that it would disincentivize Approved Vendors from producing high quality applications.

Recommendation: In accordance with the proposed project selection protocol, the use of random selection will only be used as a tiebreaker. The Program Administrator [posted stakeholder comments](#) received on the proposed Project Selection Protocol on April 16, 2019 and will carefully consider them in preparing a response to those comments and the final Project Selection Protocol.