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## **Reply Comments on Behalf of the Coalition for Community Solar Access**

### **I. Introduction**

The Coalition for Community Solar Access (CCSA) appreciates the opportunity to provide Reply Comments on the IPA's proposed lottery process. While the industry has not had to respond to this precise mechanism in other markets, based on our members' collective experience working across the country, CCSA believes the single most important thing the IPA can do to mitigate these challenges is to ensure that every bidder in the lottery is a serious bidder with viable projects by requiring a pre-bid collateral.

Project development is not without risk and, despite sincere intentions, not every solar project can be built. It would be impossible to design a risk-free mechanism to allocate REC contracts. However, if the bar for entry remains low, the entire program is at risk because speculative projects that intend merely to profit from the lottery will be able to participate at little cost. This 'friction,' resulting from speculative bidders seeking to extract profits from the allocation mechanism, is a cost to the program and Illinois ratepayers.

### **II. Importance of reducing speculative bidding**

Pre-bid collateral will help improve the quality of projects that apply and potentially preclude the need for additional rules to reduce applications for speculative projects. Pre-bid collateral will require developers to prioritize their projects and make rational decisions about project viability. For example, it would likely reduce the number of the very late-stage projects that are very far back in the interconnection queue or those that have more costly siting concerns.

While some commenters have claimed that pre-bid collateral will benefit larger developers with access to capital, it is important to note that any vendor participating in this market will already need to have access to capital for construction loans, interconnection deposits, and up-front collateral. Based on parties' initial comments and further discussion, CCSA suggests the following amended structure for the bid collateral.

1. Pre-bid collateral is required for every project submitted to the Community Solar lottery
  - a. Collateral must be paid, in the following amounts, to InClima at the time of lottery submission and held as long as the project remains in the queue:
    - i. \$50,000/MW for the first 6MWac (i.e. \$100K/project for first 3 2MWac community solar projects) submitted by affiliate Approved Vendors
    - ii. \$100,000/MW thereafter
  - b. Collateral is refundable when:
    - i. The project withdraws within 14 days of end of swap period from the a) lottery waiting list AND b) the interconnection queue;
    - ii. The project delivers initial RECs under the REC contract; or
  - c. Collateral is not refunded if:
    - i. The Program Administrator/IPA/ICC determine the project or batch containing the project is not eligible for the ABP, post cure period; or
    - ii. Approved Vendor does not withdraw from the lottery waiting list and the interconnection queue
2. There is a short swap period (maximum of 14 days) after which RECs cannot be swapped between projects. No re-study will occur before the swapping deadline.
3. Developers must sign REC contract within 14 days of end of swap period.

### **III. Response to IPA Questions**

In response to the IPA's specific questions in its request for reply comments, CCSA provides the following responses.

*Unfortunately, even at the time of substitution, actual project interconnection costs are unlikely to be known, in part because actual costs depend on queue exits by other projects in the queue and those exits may not yet have been made (or costs not yet restudied based upon new assumptions) by the time of substitution.*

*To clarify the Agency's substitution proposal, and to help address this concern, the Agency is considering the following clarifications and proposals:*

1. *Allowing switching of non-winning projects in the lottery waitlist as well as switching of winning Projects.*

CCSA supports this clarification. Developers should be able to switch projects within their portfolio, whether they are in the waitlist or selected, within the seven-day switching window.

- 2. Clarifying that reallocated projects swap lottery selection positions.*

CCSA supports this clarification.

- 3. Clarifying that reallocation can occur between projects owned by the same developer or their affiliate (rather than only by the same "Approved Vendor")*

CCSA does not object to this clarification, if the definition of affiliate is that which is used in the colocation section of the Long-Term Plan. The program administrator should also require affiliates to be identified prior to the lottery process to prevent gaming.

- 4. A new proposal to consider allowing project substitutions beyond the one-time substitution date (including for previously-substituted projects) should projects either:*
  - o Receive significantly higher updated interconnection costs than included on their initial interconnection agreement (if so, what percentage higher?); or*
  - o Receive an updated interconnection cost estimate above a certain threshold (if so, what is the correct interconnection cost threshold?)*
  - o Please comment on the extent to which this proposal helps mitigate the uncertainties around the interconnection process, or if this new proposal creates unintended consequences and inappropriate gaming opportunities. Please also comment on if there should be maximum time limits for any or all aspects of this new proposal.*

CCSA strongly opposes this proposal because it encourages and enables speculative bidding of projects. Developers will have to make difficult decisions based on interconnection information that ComEd is working to provide before the launch date of the program. It would not be fair to allow vendors switch projects multiple times or because they do not receive restudy results that support the project's economics, based on an arbitrary interconnection cost upgrade threshold. Multiple switching opportunities lead to a cascading series of restudies that could take a decade to sort out. If the project's economics do not work after the restudy, it will have to drop out.

## **SYNCHRONIZATION OF THE IPA LOTTERY WITH THE UTILITY INTERCONNECTION QUEUE PROCESSES**

- 1. To the extent that the utilities will require non-refundable deposits for projects to remain in the queue upon publishing of lottery results, the Agency is considering allowing for a project to still be considered qualified for the Adjustable Block*

*Program by virtue of its prior-executed interconnection agreement submitted at the time of the initial application to the Program, even if the project officially exits the utility interconnection queue (i.e., it may exit the interconnection queue and not pay a non-refundable deposit, thereby forfeiting its interconnection agreement, but still be considered viable by the Agency for a substitution or later program selection—acknowledging that it may have to reapply for interconnection with the applicable utility).*

CCSA strongly opposes this proposal. First, at the time of these comments are due, ComEd has not received approval for its Petition, so it is impossible to effectively recommend IPA policy without clarity on a vital component of the interconnection process. Under ComEd's Waiver scenario, CCSA still opposes this proposal because it would create a very inefficient system whereby projects are removed from the interconnection queue, then potentially re-selected for the incentive queue. This question is also illustrative of the need to disburse all capacity at once. If a project gets kicked out of the interconnection queue but is later awarded discretionary capacity, it could present a very challenging situation for the IPA and the developer. In the future, however, CCSA encourages the IPA to work closely with utilities to ensure that future program design will be compatible with utility interconnection procedures.

- 2. The Agency is considering keeping projects from seeking to participate in both the Adjustable Block Program and Illinois Solar for All program—thus hopefully creating a distinction between whether projects remaining in the interconnection queue without an Adjustable Block Program contract are simply non-selected Adjustable Block Program projects or projects awaiting the opening of a separate distinct state-administered incentive program that features additional program requirements (something the utilities could potentially use to distinguish between how such projects are treated)*

CCSA does not object to this proposal.

*The Agency is also interested in additional suggestions for how to synchronize lottery guidelines with utility interconnection queue management, but requests that any suggestions be mindful of the following constraints:*

- 1. The need for ensuring that a final list of selected projects be available within a reasonable time after the Program's opening;*
- 2. Understanding that each change in an interconnection queue may require a multi-week/month restudy of the costs of every other project on that circuit (which could result in a cascade of such processes);*
- 3. Understanding that changes in projects in the interconnection queue can both raise and lower the costs for systems further down the queue;*

- 4. Ensuring that projects that may opt not to participate in the Adjustable Block Program are not prejudiced in the interconnection process.*

Based on the four acknowledgements laid out in the above section, the IPA should not try to solve for inherent risks in interconnection costs. Any attempt to do so will greatly complicate the program and further enable speculative bidding. As stated elsewhere in these comments, the way for the IPA to achieve the above goals is to:

- A. Allocate the full capacity of the program to the market segments with the most demand before any lottery occurs; and
- B. Require any switching decisions to occur within a maximum of 14 days of the lottery, with no second opportunity to switch.

## **REDUCING APPLICATIONS FROM SPECULATIVE PROJECTS**

- 1. Limiting a developer and its affiliates' applications to the maximum capacity in Blocks 1-3 of each Group.*

CCSA does not support this proposal because it would entail a fundamental policy shift very late in the process and this is a considerably different proposal than the developer caps on awards recommended by some developers in their initial comments. This concept was not contemplated by the ICC Order approving the final Long Term Plan or the Future Energy Jobs Act and could potentially open the program up to litigation. Developers have spent significant capital on permitting and project development to date, so limiting the number of applications a developer could submit would result in wasted development resources.

More importantly, the proposal would not limit applications from speculative projects as suggested in the IPA's request for Reply Comments. For instance, a vendor could have 10 speculative projects and one viable project, but this proposal would not limit their ability to submit the speculative projects. Conversely, a vendor could have 30 good projects and zero speculative projects, and this proposal would only seek to block those good projects. CCSA believes that the pre-bid collateral option proposed above is more impactful to reducing speculative bidding.

- 2. Limiting entries into the lottery for community solar to only projects with interconnection application dates prior to the September 10th release date of the Agency's draft lottery proposal.*

CCSA supports this proposal.

- 3. Consistent with a number of comments received, requiring those community solar projects that make the small subscriber commitment to provide information at the time of application showing that those developers have a plan to actually*

*solicit and enroll small subscribers. If in support of this concept, please provide details of the information that would be required and the method the Program Administrator would use to ensure that this plan was accurate, correct, and sufficiently robust.*

CCSA strongly supports practical avenues for small subscribers to be included in community solar projects, and does not, in theory, object to this proposal. However, CCSA would like to note that it puts the program administrator in the challenging position of judging whether a customer acquisition strategy will likely be sufficient.

- 4. Requiring that projects upload a copy of any zoning permit(s) required (or attest that no zoning permit is required), as well as attesting that all other non-ministerial permits have been obtained. If in favor of requiring an upload of all ministerial permits, please detail how the Program Administrator would determine which ministerial permits are required for a given project.*

CCSA requests clarification on this question. Was the second sentence of the question supposed to read non-ministerial? If so, CCSA strongly supports this proposal. CCSA recommends that the IPA discuss with the the Illinois Counties Association to see if they would be willing to survey members regarding which counties require a special use permit or conditional use permit for large solar facilities. If the applicant is in a place where zoning does not apply, the developer could submit a letter from the jurisdiction stating that the project does not need a permit.

CCSA also recommends that the Program Administrator fully vet all applications and materials to verify every project's eligibility into the program. If an application proves to have provided any fraudulent information in its application, it should be removed from the program.

- 5. Requiring a signed lease or option to demonstrate host acknowledgement (and not merely a letter of intent).*

CCSA strongly supports this proposal.

#### **“GROUPING” OF PROJECTS INTO A SINGLE LOTTERY ENTRY**

- 1. Recognizing that for some distributed generation projects being viable may be contingent on other projects also moving forward, the Agency is considering allowing “all or nothing” project applications for lottery purposes for a group of projects up to 2 MW cumulative capacity. All projects in this group would be considered a single lottery entry; while this would reduce the chance of any one project within the group obtaining a winning spot, it would ensure that if a winning spot were obtained, it would include all projects in that single grouping.*

*Under this proposal, co-located 2 MW systems could not be “grouped” as they would still be subject to a 2 MW threshold.*

CCSA requests clarification on this proposal. As written, we understand this to mean a developer would get one lottery ticket for all 4 projects combined. If this is the case, does this mean the project would still get an increased adder for each of those projects? CCSA recommends that if this proposal is adopted, the smaller projects receive pricing based on the aggregate size of all the projects and provide proof that they are locationally proximate and dependent upon one another (i.e. several smaller arrays located on multiple buildings of the same housing complex). Since this distinction has not been previously discussed, however, CCSA suggests that the IPA facilitate further public discourse about the definition of locational proximity.

## **TRANSPARENCY OF INFORMATION**

- 1. If there are additional privacy of information concerns, please provide concrete examples of trade secrets or proprietary, privileged, or confidential information that would cause competitive harm should it be divulged through publishing information about the size and location of community solar projects entered into the lottery.*

CCSA supports full and transparent accounting for the use of program funds at the appropriate time and with appropriate protections for confidential, competitive information. From a developer’s perspective this disclosure would be more appropriate once final REC contract awards have been made. It is highly likely that there will be significant changes between initial awardees and the final recipients, making early disclosure of the data premature. Further, premature disclosure shows competitors where winning projects are located, inviting gaming behavior. CCSA recommends that project size and location should be considered confidential until a REC contract is signed. Among the downsides associated with publishing the location of all the projects could be developers trying to “box in” competitor sites or extracting concessions from competitors by cross-referencing information from the utility’s hosting capacity map to determine a project’s upgrade costs and economics.

- 2. The IPA is also considering requiring that all projects submitted include an attestation by the Approved Vendor that the Approved Vendor will inform project hosts that there will be a reallocation process that, even if the project is selected for a REC contract by the Illinois Power Agency, may result in their project not moving forward. (Potentially the Approved Vendor could waive this attestation requirement in exchange for also waiving the right to reallocate the project.)*

Such an attestation is likely unnecessary. The IPA does not seem to require this for other bidding processes it has undertaken in the past and, given the inherent risk of this lottery system, it is likely that all developers have explained the process to landowners. If such an attestation is pursued, it should apply across the board for all projects, including residential and commercial projects.

## **LOTTERY WITHIN 45 DAYS**

*To avoid block management oversubscription issues and maintain consistency with the rationale for a lottery upon Block 1 being quickly oversubscribed, the IPA would also like to expressly provide for a lottery to also be held if Block 1 for a Group/category is not filled in the first 14 days, but is subsequently filled to greater than 200% in the first 45 days.*

CCSA strongly opposes this proposal. This is unnecessary and imposes more risk and complication onto an already risky, complicated program.

## **DISCRETIONARY CAPACITY**

*The Agency would welcome comments on how to allocate discretionary capacity after the lottery is conducted in a manner that would recognize the intent of the Commission Order to open new blocks promptly, but also maintains the spirit of the concept of “discretionary” to allow the Agency flexibility in managing ongoing program demand across sectors.*

It is important for participants to be able to fairly assess the risk of applying into the lottery and therefore, and part of that assessment is understanding how much capacity will be available. As such, the IPA should award the remaining 25% of capacity as soon as possible.

Before any lottery occurs, but after a cure process to determine which projects are actually eligible for the lottery, the IPA should review the demand for each market segment, based on megawatts applied for. The program administrator should then award the unallocated 25% of capacity proportionally across categories based on the ratio of that market segment’s overcapacity versus the total overcapacity. No switching (nor any reshuffling of the interconnection queue) should happen until all the capacity in Phase 1 of the ABP (as covered by the first Long-Term Plan) has been allocated to a particular market segment. The discretionary capacity should be allocated prior to the opening of the lottery to discourage developers from holding onto queue positions and delaying the program.



CCSA further suggests that this discretionary capacity be allocated by filling up Block 3 to its original size and then open up Block 4, if necessary.

Please do not hesitate to reach out if you have any questions about CCSA's positions outlined above.

Respectfully Submitted on October 17, 2018,

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