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Via Electronic Mail

Anthony Star
Director, Illinois Power Agency
160 North LaSalle Street, Suite C-504
Chicago, Illinois 60601
comments@illinoisabp.com

Re: Comments on IPA's November 27 Draft Adjustable Block Program Guidelines for Community Solar Marketing Materials and Marketing Behavior and related forms

Dear Director Star,

United States Solar Corporation ("US Solar") files this letter in response to the Illinois Power Agency's ("IPA") November 27 Adjustable Block Program Guidelines for Community Solar Marketing Materials and Marketing Behavior and related forms ("Community Solar Marketing Guidelines"). US Solar is a community solar farm developer/owner/operator that is currently developing projects in four states, with over 50 MWs of community solar installed and subscribed to date.

We are excited to participate in the Illinois community solar market, and respectfully request the following modifications to the draft Community Solar Marketing Guidelines.

- 1) The IPA should require community-solar vendors/applicants to file only a representative sample of their subscriber marketing materials.**

We respectfully request that the IPA not require program review and pre-approval of community-solar marketing materials. This proposed step seems unnecessary given all the other safeguards that the IPA is putting in place such as the ABP Guidelines, the required ABP Brochure and Disclosure Form, the 3-day rescission period for small subscribers, as well as the various pre-existing legal protections against false advertising, telemarketing, etc.

Requiring the pre-approval of all marketing materials will add administrative costs and delays for little to no marginal benefit. Instead, the IPA should merely require community-solar applicants to file a representative sample of their marketing materials (*e.g.*, so the IPA can review the materials later if there's a customer complaint).

That said, if the IPA does maintain the need for review and pre-approval of all marketing materials, we ask that IPA clearly establish:

- a) The expected turnaround time for IPA review and approval of any submitted marketing materials.
 - b) That once a vendor/applicant's marketing materials are initially approved, the vendor can make and use "substantially similar" marketing materials (*i.e.*, with non-material modifications) without having to seek re-approval.
- 2) If the IPA does require community-solar vendors/applicants to file all of their subscriber marketing materials for review by the IPA, it should clarify that the materials may be filed after the Block 1 Lottery (but before the materials are used in commerce).**

The IPA should not require Vendors and/or community-solar Project Applicants to submit their subscriber materials for review and/or approval before the Block 1 Lottery is held. Instead, the IPA should peg any such requirement to the start of the applicant's active marketing and subscription activities.

It would be economically wasteful to require all community solar vendors / applicants to prepare and finalize subscriber materials before the Block 1 Lottery takes place. That is because the community-solar lottery may result in some (or even most) applicants not receiving an ABP REC Contract until a year or more down the road via the waitlist. Indeed, depending on the actual interconnection sequence, some of those REC waitlisted projects may never be built (*e.g.*, due to hosting-capacity saturation on the distribution feeder or substation).

- 3) The IPA should seek to shorten the ABP Community-Solar Brochure and standard Disclosure Form, as both are quite long.**

The two required documents (the ABP Brochure and required Disclosure form) together are quite long, and appear to contain several redundancies. The IPA should endeavor to keep this Brochure (and the required Disclosure form) as short as possible, to facilitate readability by the customer. Keeping the Brochure and Disclosure short would include deleting any redundant text. For example, the second and third paragraphs in the Disclosure form contain information that is already covered in the Brochure.

Also, please confirm and clarify that these documents are required for small customers only, as they are framed as consumer protections.

- 4) The IPA should enable the use of DocuSign or a similar tool for securing e-signatures on the required Disclosure Form.**

We understand that IPA wants each subscriber to sign this form before or concurrent with signing the community-solar project's subscription agreement. But we ask that IPA clarify that it

would be acceptable to electronically provide the subscriber with the link to a DocuSign form that can be signed electronically by the subscriber.

5) The IPA should clarify that vendors may request approval to use a modified Disclosure Form.

We also ask the IPA to clarify that vendors may request from the IPA a waiver to modify the standard form. There are many potential instances where the use of a modified form could be justified. So it only makes sense that the IPA would allow itself the ability to approve modified versions of the form upon request.

For example, without removing or altering any of the required financial disclosures, a given vendor (or project) may want to emphasize community partnerships, project location, or other non-price distinctions between community-solar offerings that may be important to various subsets of subscribers (*e.g.*, members of a specific interest community) – without hiding it at the bottom of the multi-page Disclosure form.

6) The IPA should clarify the range of allowable approaches for community-solar vendors/applicants that want to co-market with an Alternative Retail Electric Supplier.

We note that the draft Community Solar Marketing Guidelines includes one sentence related to the combined marketing of Alternative Retail Electric Supplier (“ARES”) and Community Solar offerings.¹ We appreciate the IPA contemplating this scenario, and signaling that co-marketing should be allowed. However, this provision seems to raise more questions than it answers, so we respectfully request that IPA provide additional guidance as to how ARES and community-solar providers may work together to lower subscriber acquisition costs, without placing unreasonable restrictions on community-solar applicants.

7) The IPA should clarify its Guidelines around how and when it will request to review private subscription contracts.

The draft Community Solar Marketing Guidelines state that the Approved Vendor must provide the IPA with records of any customer subscription upon request.² We respectfully ask IPA to clarify in the final Community Solar Marketing Guidelines that:

¹ Community Solar Marketing Guidelines, at 4 (“Customers shall not be required to sign up for (or maintain service from) a specific Alternative Retail Electric Supplier (‘ARES’) as part of their community solar subscription contract, unless the contract provides that a customer may cancel the community solar subscription contract without penalty upon ending service with that ARES.”).

² *Id.*, at 8 (“Upon request by the IPA or Program Administrator, the Approved Vendor shall provide these records within twenty-one calendar days.”).

- a) This provision only applies to small subscribers, not larger subscribers (over 25 kW) that may enter into customized subscription arrangements; and
- b) The IPA will respect and honor the contracting parties' request for confidentiality (*i.e.*, non-publication) and trade-secret protection as appropriate.

8) The IPA should allow reasonable conditions and fees on the subscription transfers, as long as the conditions and fees are clearly disclosed to the subscriber before signing.

The draft Illinois Adjustable Block Program Community Solar Brochure Text ("Community Solar Brochure Text") states that a subscriber has the right to assign or sell the subscription to another person "without having to pay a fee to the community solar provider."³ We respectfully ask IPA to clarify in the final Community Solar Marketing Guidelines that:

- a) This provision only applies to small subscribers, not larger subscribers (over 25 kW) that may enter into customized subscription arrangements;
- b) The community-solar owner/operator may charge small subscribers a reasonable transfer fee (*e.g.*, \$100 or less) to cover the reasonable administrative cost of processing the change request and evaluating the proposed transferee for eligibility under the subscription agreement; and
- c) The community-solar owner/operator may reject a proposed transferee based on credit risk (*i.e.*, credit score) or other subscription-specific eligibility factors.⁴

9) The IPA should clarify that "evidence" of insurance and a long-term maintenance plan can include a description of the insurance and maintenance agreements that will be put in place prior to the project's commercial operation date.

The draft Community Solar Marketing Guidelines state that "all [subscriptions] must contain . . . (q) Evidence of insurance for the full replacement cost of the project; (r) A description of the project's long-term maintenance plan."⁵ But as a practical matter, these contracts are typically not executed until closer to the project's commercial operation date (COD), *e.g.*, to avoid unnecessary project carrying costs. We respectfully request that the IPA clarify that said contracts can be put in place after the subscription as long as they are in place prior to project COD.

³ Community Solar Brochure Text, at 3.

⁴ A subscription-specific eligibility factor could include, *e.g.*, a community-solar operator enters into an arrangement with a local employer or house of worship (who may also be the site host) to provide subscription capacity exclusively to its employees or members.

⁵ Community Solar Marketing Guidelines, at 11.



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Sincerely,

s/ *Ross Abbey*

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