September 27, 2018

RE: Community Power Group Comments to IPA Strawman Proposal of September 10, 2018

Community Power Group ("CPG") appreciates the opportunity to provide comments to the IPA Strawman Proposal of September 20, 2018. The Community Power Group and its affiliates have been developing distributed generation solar facility since 2010 and has vast experience in community solar and behind the meter solar facilities in numerous states throughout the county. Since 2016, we have actively worked with Illinois landowners, municipalities and other government agencies as both a consultant and a developer of community solar gardens and behind the meter systems. In this capacity we are providing the following comments with regards to the proposed Strawman.

Small Subscriber Priority

Recommendation: The IPA should require evidence of intent and ability to obtain and manage small subscribers. This should include at a minimum a basic understanding of what is involved in obtaining and maintaining small subscribers. Examples include:

- An overview of the plan to send and received data from the corresponding utility
- An overview of the information management system that will be utilized to manage the small subscribers
- A customer acquisition plan and example marketing material

Comments: It has been widely accepted that virtually all applicants will be "checking the small subscriber box" and then if selected do a cost benefit analysis to figuring out how and if it makes sense to go through the cost and effort to acquire and maintain small subscribers vs just absorbing the penalty. This notion takes away from the genuine desires of ensuring projects selected give priority to the CSG Block Program small subscriber objective. Having applicants provide relevant basic information will at a minimum force applicants to assess the practicalities of implementing a small subscriber program and not just have this important component of the program just be a check the box / worry about it later component of the application.

Application Fees

Recommendation: The IPA should require applicants provide at a minimum of 50% REC deposit fee at the point of application that is not refundable if a project is selected.

Comments: The addition of a high deposit requirement at the point of submission will provide evidence of a developers ability to build the project and drastically reduce the number of highly speculative projects that may not have funding or be economically viable.

Co-location Commentary

Recommendation: During the IPA stakeholder call on the initial strawman lottery proposal, it was indicated that recommendations are welcomed in thinking about how to consider co-located sites in the Community Solar Portion of the Adjustable Block Program ("CSG Block Program") lottery process. As it was explained during the call, the current thinking is that a co-located site would be considered as two individual sites for the purpose of the lottery. Given that the Illinois Public Utilities Act, the IPA and the Commission have indicated a strong preference for geographic diversity, our recommendation is that only single location sites (i.e. include only one of the two sites in a co-located project) be considered in the first tier of the lottery and that the second of the co-located sites be included in the second tier.

<u>Commentary</u>: The following commentary goes on to support the following two statements:

- Co-location was only permitted in the most recent public comments to "de-risk" development and ensure the CSG Block Program would have enough subscribed projects. It was not the intent to allow co-located projects in order to decrease geographic diversity and present developers with an opportunity to "game" the system by increasing their statistical odds of being selected in the first tier of the lottery
- All parties have agreed that using a "tiered" lottery system would be an effective way to give priority to the desired objectives of the program (eg, small subscribers and geographic diversity)

<u>Co-located projects should be approved to "de-risk" development, not deemphasize geographic diversity and "game" the system</u>

The notion of allowing both sites in a co-located situation to equally participate in the first tier of the lottery as though they were two single locations is not in the spirit of the CSG Block Program as indicated by the Public Utilities Act, IPA and the Commission who's strong preference was for "geographic diversity".

The initial LTRRPP issued in December 2017 indicated a strong preference against allowing co-located projects (see Section 7.3 and 7.3.1). The Commission further supported this notion in its February 26, 2018 Proposed Order in which the Commission reiterated their opposition against co-located facilities and specifically stated:

"The Adjustable Block program shall be designed to ensure that renewable energy credits are procured from…. projects in diverse locations and are not concentrated in a few geographic areas" (February 2018, pg 129)

The IPA echoed these comments with the following:

"The IPA argues that the General Assembly created an express 2 MW project size limitation that should not be "gamed" through multiple projects together exceeding that size, and co- location compromises the law's objective that "renewable energy credits are procured from photovoltaic distributed renewable energy generation devices and new photovoltaic community renewable energy generation projects in diverse locations and are not concentrated in a few geographic areas." (April 2018, pg 131)

It was not until the final Proposed Order (in which no more public comments would be accepted) did the Commission rule against the guidance of the Public Utilities Act 00-0906, the LTRRPP, the IPA and the Commission's own earlier comments when it indicated that:

"Co-location can lower the risk of project development by permitting bidders to share interconnection costs…" (April 2018, pg 131)

However, even in this conclusion that approved co-location of facilities, the Commission acknowledged that there was a:

"statutory intent of cultivating geographic diversity among projects" (April 2018, pg 131)

One can understand the Commission wanting to implement policies that would *"lower the risk of project development"* in an effort to ensure the success of the Community Solar Block Program ("CSG Block Program") and therefore, back in March/April 2018, the Commission focused on making sure policies were in place to ensure that the CSG Block program would be adequately subscribed. In fact, the Joint Solar Parties ("JSP") themselves argue that allowing co-location is all about economies of scale:

"The Commission should revise the IPA's prohibition on co-location to allow an Approved Vendor to apply for the Adjustable Block Program for two projects in one location to take advantage of economies of scale." (April 2018, pg 130)

The JSP goes on to acknowledge the historical connection between allowing co-location and oversubscribed scenarios and indicated that it did not think that allowing co-location would create an oversubscribed scenario:

"The Joint Solar Party believes their approach accomplishes the IPA's goals of not repeating the experience of Minnesota where co-location was a factor in oversubscribing the initial program very quickly" (April 2018, pg 130)

However, with the benefit of hindsight, and the flood of co-located interconnection applications that followed the Commission's ruling to allow co-locations, we see that allowing co-location did result in a massively oversubscribed scenario for the CSG Block Program and thus Illinois is set to repeat the exact mistakes made in Minnesota.

Today we face a situation in which a number of mainly large developers have drastically increased the size of their portfolio by simply adding co-location to an existing site. Given the vast amount of solar being proposed on large tracts of farmland, this is not difficult. As a result, co-located facilities have in essence allowed these developers (in the IPAs own words) to *"Game the system"* and double their chances of obtaining a "lottery" ticket, thus <u>"Stacking" the lottery odds against sites that offer geographic diversity</u>. For example, if the Queue had 700 applications, of which 400 are co-located and 300 are single locations, and all check the box for small subscribers, then the odds of a co-located site being selected are 57% (400/700). If however, only one of the co-located sites is put in the first tier of the lottery, then the chances of a co-located site being selected in the tier one lottery are only 40% (200/500). This represents a 30% decrease in the chances of a co-located site being selected (17% (the difference between 57% and 40%) divided by the original 57%). This has important implications to geographic diversity because if a co-located site is selected the developer would presumably use its rights to transfer another site to the co-located site to reap the "benefits of economies of scale", as argued by the JSP. <u>It's important to note</u> that if developers with a co-located site that is selected in the lottery do not reallocate a second site (because the co-locate REC penalty is greater than the benefits of the "economy of scale"), then allowing the second site as a part of the tier one lottery is being used by developers purely to *"game"* the system and increase their "lottery odds". Accordingly, allowing co-located sites has only two implications, it either gives co-located sites a statistical advantage in the lottery (which runs against the preference for geographic diversity) or it is being used by developers to game the lottery and increase their odds of having a project selected. Clearly neither of these options were the intent of the Commission in their last minute support of co-location.

Used a Tier Lottery system to promote the CSG Block Program priorities

Geographic diversity is a clearly stated priority as repeatedly expressed by Public Utilites Act 00-0906, the LTRRPP, the IPA and even the Commission. Co-locations were only considered in March/April under the notion that they would act as a backstop by providing some "de-risked" project development opportunities to ensure the program ultimately had enough subscribers. Given the current interconnection queue at both ComEd and Ameren, it is clear that the CSG Program will be ~10x oversubscribed, much of which can be attributed to allowing co-located sites. Given this, something needs to be done so that what was intended as a backstop to under-development of the program does not end up taking away from the clearly stated geographic diversification priority.

There exists a clear solution. Similar to how small subscribers were given a preference in the lottery, single location sites (including one project from a co-located site) should also be given a preference in the lottery. To implement this the administrator could simply only permit one project of a co-located pair in the first tier and then the second project would fall into the second tier. An example of the tiers would be as follows:

Tiers
1 50% small subscriber committed single location sites one of the two co-located sites
2_ CSG without small subscriber commitment and the second co-located site

Including these criteria works within the existing framework established by the IPA and would accomplish many goals as described by the Public Utilities Act, the IPA and the Commission as follows:

1. It would prioritize geographic diversity (similar to the way small subscribers are prioritized),
2. It would provide a means to "de-risk" project development in the event there are not enough projects in tier I to fill the blocks, and
3. The second co-located sites are not "wasted" as they would still receive a placement number in the "Lottery Queue" (same as those that are not emphasizing small subscribers).

In reading all the public comments, you will note that all arguments in favor of co-location were to make sure the program was a success in an under-participated scenario. Clearly, given how oversubscribed the program is, that is not the situation.

As for support for using the Lottery to manage program preferences in an oversubscribed scenario, one can reference the IPA comments as outlined in the April 2018 Public comments on page 66 (in *italic* below). At the time the IPA wrote these comments co-location **was not** permitted (and the IPA continued to have a strong preference against it (see page 131 of the April 2018 comments)). While these comments related to how to show preference for small subscribers in the lottery system, what it also clearly shows is the IPA and Commission's desire and willingness to use a "tier lottery system" to promote certain key objectives of the CSG block program in an oversubscribed scenario. The IPAs comments go further to indicate that oversubscription may not be an issue because at the time of the publication, Illinois had "stricter co-location" standards (i.e., co-location was not allowed at the time the IPA wrote this). It is clear that given the Public Utilities Act and IPA's disfavor toward co-location and preference for geographic diversity that if co-location was permitted at the time of public comments that they and others would have been open to a similar "tier" approach to show preference for those sites that would encourage geographic diversity.

"The IPA appreciates the concerns raised and acknowledges that managing initial demand in the Adjustable Block Program (particularly for community solar) may be challenging. This process involves several unknowns, such as how many developers will be ready with projects at the time the program launches and how developers will seek to develop projects serving various customer segments. The IPA is cautiously optimistic that while there is great interest in developing the community solar market in Illinois, the "initial rush" will be less than that of, for example, Minnesota due to stricter co-location and site maturity requirements. Still, the risk of initial applications potentially exceeding projected available future funds does exist, leading the IPA to propose a lottery structure to manage it. Considering objections, and also to further increase the opportunities for small subscriber participation (because it is in community solar rather than the two distributed generation categories that this risk may be highest), the IPA now proposes a revised approach as follows:

- *Initial application period would be for 21 days rather than 45 days.*
- *If after 21 days project applications would use more than 200% of Block 1 volume, then there would be a lottery to select projects. For community solar projects the following additional provisions would apply:*

Priority will be given to projects that propose to include at least 50% small subscribers. 50% of the available funding would be reserved for these projects. If the number of proposed projects with small subscribers exceeds that funding then there would be a first lottery for just that pool of projects. (If the proposed projects do not use up that funding, the balance of available funds would be available for other projects that are part of this initial application period.) Projects not selected would then be placed in a lottery for the remaining 50% of funding along with projects that do not include small subscribers.

To ensure that projects that propose to include small subscribers (in order to get prioritization) live up to that commitment, those projects will be required to meet their proposed subscription levels within one year of energization. Failure to do so would result in the projects not receiving any small subscriber adder and would be subject to a 20% penalty on the total value of the REC contract.

- *If after 21 days applications do not exceed 200% of Block 1 volume, then the Block would remain open until filled, as described in the Plan.*

Conclusion

All parties in the public debate process acknowledged that creating a massively oversubscribed scenario that favors a lack of geographic diversity in a lottery scenario was not the objective of allowing co-locations. It was simply to ensure the program's success by providing an alternative "de-risked" development scenario in the event of an undersubscribed scenario. It is also clear that geographic diversity along with small subscribers were two pillars of measuring the CSG Block Program's success. Given how oversubscribed the CSG Block Program is and how much of this has to do with allowing co-located sites, it is easy to see that giving single project sites (and only one site per co-location) a preference in the Lottery process would be in the best interest of the public. Furthermore, it is representative of the desires of the Public Utilities Act, the IPA and the Commission for the CSG Block Program to have geographic diversity and thus allowing more communities to see and enjoy the benefits of CSGs.

Allowing only one co-located site to participate in tier one of the lottery is an easy and effective way to leverage the existing lottery structure to support the critical objective of geographic diversity and, similar to those projects that will not commit to the small subscriber requirements, it allows the second co-located project to participate in the second tier of the lottery in the event there are not enough preferred projects to make the program successful.

Consideration could also be given to establishing a third tier for the second co-located sites which would truly provide the greatest geographic diversity by allowing those single location sites that could not commit to the small subscriber requirements a priority over the geographically concentrated co-located sites.

<u>Submission Requirements</u>

<u>Recommendation:</u> The IPA should at a minimum require the actual submission of the following in connection with the Block Programs:

- A copy of a dually recorded lease. It should be an actual lease rather than just an option agreement where many variables remain open and thus pose a potential risk to the projects viability.
- The actual Special Use Permit or letter indicting its an approved use from the appropriate permitting authority
- A signed interconnection agreement

<u>Comments</u>: During the IPA stakeholder call on the initial strawman lottery proposal, it was indicated that the actual administrative permits would not be required to be submitted in connection with an application to the Block Program. At this comment there was an immediate flurry of questions to confirm this and its implementation. Our recommendation is that this be reconsidered and that a Special Use Permit ("SUP") or a letter indicating that a solar farm is an Approved Use ("AU") (collectively the "Administrative Permits") be required in submitting an application. The following provides some explanation for this suggestion.

One of the biggest risks associated with developing a solar farm is the ability to obtain approval from the local permitting authorities. There are countless projects that have not been approved and others that will not meet the permitting deadlines in time for the lottery. The notion of having developers merely providing an "attestation" to having received an approval leaves the door wide open for gaming the system without any meaningful checks and balances. This issue is further exacerbated by the fact that developers will have an ability to relocate sites selected in the lottery. For example, a site that may not have been granted a permit, but was submitted and selected in the lottery, could easily be relocated to another site, leaving no opportunity to really detect that the permit had not actually existed at the time of the lottery.

Providing an Administrative Permit is a simple and non-burdensome process. Anyone that has received such approval should have the Administrative Permit in hand which can be easily submitted as a part of the Lottery application process with an attestation to its authenticity.

Additionally, no buffer should be provided for developers in the process of obtaining a permit at the time of the lottery submission. This not only runs against what is required but creates a level of uncertainty and ability for developers to game the system.

3rd Block and the 25% discretionary funding

Recommendation: The IPA should immediately run the lottery for the third block and within it allocate the additional 25% funding on a prorated basis of each of the various Block programs oversubscription

Comments: Uncertainty regarding unallocated funding and where that funding will ultimately be allocated will be counter productive to the smooth implementation of the various programs and as it will raise numerous questions critical to the decision making of developers.

Project Swapping

Recommendation: The IPA should maintain its position on allowing one project swap that must be submitted within 7 days of award.

Comments: Allowing a one project swap per award will all developers to swap an award to a project that has received the greatest support and enthusiasm from a community.

Developer Cap

Recommendation: The IPA should limit any one developer from being awarded more than 25% of any particular Block.

Comments: One of the many stated goals of the program is to have supplier diversity in the program and to allow a diverse group of businesses to participate. Limiting developer concentration will help achieve these diversity goals and help de-risk the program from being overly exposed to any one particular developer.