



September 24, 2018

Trajectory Energy Partners, LLC
P.O. Box 310
Highland Park, IL 60035

Re: Trajectory Energy Partners Comments to the Block 1 Lottery IPA Strawman Proposal of September 10, 2018

I. Introduction

Trajectory Energy Partners (“Trajectory”) welcomes the opportunity to provide comments on the Block 1 Lottery IPA Strawman Proposal of September 10, 2018 (the “Strawman”). Trajectory was formed in Illinois in early 2017 by an experienced group of solar professionals to develop solar projects that are integrated into the landscape and communities of Illinois. Trajectory has actively developed Community Solar projects for the Adjustable Block Program (“ABP”) for the past 18 months, working closely with our landowners, host communities and utilities to ensure that all of our projects submitted under the ABP will be ready for construction immediately upon receipt of a REC contract.

These comments are detailed because we realize that time is short and there will not be an opportunity for reply comments, and we thus thank you in advance for your review.

II. Comments

Trajectory is committed to helping the Illinois solar market develop effectively, and our comments to the Strawman are made with the intent of preserving the integrity of the ABP, achieving the goals of the Future Energy Jobs Act (“FEJA”), learning from the mistakes made in other nascent solar markets, and advancing solar as a clean energy solution with a bright future in Illinois.

We find ourselves heading towards a Community Solar Block 1 Lottery (the “Community Solar Lottery”) that jeopardizes those goals. Based on ComEd and Ameren reports and anecdotal evidence from local zoning authorities, the Community Solar Lottery will be exceptionally oversubscribed. Of course, attracting a robust solar

market was a goal of FEJA, and this strong interest in Illinois community solar should be considered an initial success. However, recent policy developments by the utilities and the IPA threaten to have a significant negative impact on many stakeholders in FEJA's success, including landowners, county and municipal governments, and utilities. To help mitigate these negative impacts, Trajectory has several suggestions for the Strawman, as outlined below.

First, it is worth briefly reviewing a few of the developments that have worsened the challenges to a robust Community Solar Lottery, including a) utility interconnection studies that are highly uncertain, b) the policy shift from requiring a REC deposit of 10% of the REC contract upon contract approval in the September 29, 2017 Draft of the LTRRPP to a 5% deposit withheld from the last payment for a REC contract, and c) ComEd's communication to developers that it was not going to prepare or sign interconnection agreements and was instead filing a proceeding with the Illinois Commerce Commission to request a temporary waiver of the requirements of Part 466.

However, the following two policy developments have combined to create problematic incentives for the Community Solar Lottery:

- 1) The recent decision by utilities not to require solar project developers to post the customary construction deposits at the time of receiving their interconnection agreement, prior to entering the Community Solar Lottery or receiving a REC award; and
- 2) The IPA's recent introduction of the "Contract Reallocation" concept to the Community Solar Lottery, as formally proposed in the Strawman on September 10th, 2018.

The combination of these policies creates a strong incentive for solar project developers to develop certain projects purely as Community Solar Lottery tickets, with no intention of ever building these projects. Without construction deposits, developers can continue developing projects for lottery submission even in the face of untenable interconnection costs. The Contract Reallocation policy removes any negative consequences for developers who submit non-construction-ready projects so long as they have any construction-ready projects to which they can reallocate their REC contract. As a result, developers who have responsibly poured significant resources into developing projects ready for the Community Solar ABP will be disadvantaged. As a simple example, any developer who received an initial interconnection study with a non-contingent multi-

million-dollar upgrade – which should not be built in Illinois in any circumstance – would have responsibly ceased development on that project.

Once it became clear that the utilities would not require interconnection deposits until construction and that “Contract Reallocation” was a possibility, there was no longer any business rationale for developers to cease development of projects with expensive upgrade costs – regardless of queue position – so long as a developer had at least one other more viable project that might benefit from an extra lottery ticket. And because both ComEd and Ameren will not restudy the interconnection upgrade costs for any projects until after projects receive RECs, the Contract Reallocation mechanic does not provide will any additional information about their interconnection costs when they are deciding how to reallocate contracts.

The threat of non-constructible projects goes beyond the questions of fair policy, moral hazard, and bad incentives. We are concerned about the potential negative impacts these perverse incentives may have on key stakeholders in FEJA’s success, including:

- County and municipal governments: Developers now have an incentive to waste significant time and resources from local governments across Illinois pursuing zoning approval for projects they never intend to build. It takes many hours for local government staff and elected officials to consider a single zoning application, between application review, applicant meetings, zoning hearings, County board meetings, natural resource inventories, and public outreach. Unless additional quality-control checks are added to the Community Solar Lottery, governments around the state are going to regret the late nights of zoning meetings evaluating another batch of a half dozen community solar projects, few of which were ever realistically going to be built.
- Landowners. A typical solar lease involves a relatively small upfront payment to the landowner at the time of lease signing, but with significant rental payments down the road if a project gets built. Developers now have the incentive to pursue land leases for unbuildable projects, at a significant opportunity cost to landowners, simply to secure an additional lottery ticket to improve the developer’s chances of getting a lottery award for a preferred project.
- Utilities: Unsurprisingly, Ameren and ComEd both reported a flood of new interconnection requests in conjunction with the Contract Reallocation idea becoming public. Developers now have an incentive to request interconnection studies for unviable projects they never the intend to build.

The Community Solar Lottery should be designed to ensure that developers are making rational decisions as to whether to submit a project based on whether the project is viable, and not on whether the project will earn them another lottery ticket. Thus, the lottery mechanics should encourage developers to only submit their most viable, construction-ready projects.

It is critical that the lottery exclude non-construction-ready projects from even applying to the program, as it will continue to reward irresponsible development, with the negative impacts described above.

III. Detailed Recommendations

Trajectory strongly believes that the combination of no interconnection deposit plus Contract Reallocation will waste countless resources statewide and could potentially threaten long-term public support for solar in our communities. However, the IPA has an opportunity to rationalize the Community Solar Lottery, and to do so within both the constraints of the LTRRPP and Contract Reallocation by adding the elements below to the Community Solar Lottery. Without these additions, Illinois is likely to fall significantly behind its goals for solar construction in FEJA, put a question mark on the further development of a solar market in Illinois, and severely test public support for the community solar program.

A. Program Opening Date

Recommendation: The IPA should maintain the published dates for Approved Vendor qualification and the Adjustable Block Program opening.

Comment: It is critical to maintain the proposed dates for Approved Vendor qualification and the Community Solar Lottery opening. Further delaying the program, which has already been delayed significantly, will exacerbate the issues described above, in particular the flood of non-constructible projects. In addition, lottery delays reduce the likelihood that a project will be eligible for the current federal Investment Tax Credit before it steps down in 2020.

B. Lottery prioritization

The following elements should be used to further prioritize projects within the Community Solar Lottery, in order to ensure that the most construction-ready projects are selected in the lottery. These elements are also likely to result in better geographic dispersion of projects, lower project costs and the resulting ability to pass further

savings along to community solar subscribers, less moral hazard in project selection, and better incentives for developers to responsibly pursue project development.

1. Queue position/contingent upgrades.

Recommendation A: The Community Solar Lottery should give priority to projects with first position on their respective interconnection queues.

Recommendation B: The Community Solar Lottery should give priority to projects with interconnection upgrade costs that are demonstrated to be non-contingent on other projects on the same circuit.

Comment: While the interaction between the interconnection queue and the lottery has been a point of significant uncertainty for developers, utilities, and the IPA alike, there is no reason to disadvantage projects that were the first on their interconnection queue for a given circuit. The IPA could prioritize projects that are first in their respective queues. These projects have the greatest certainty about their interconnection upgrade costs, because they are not contingent on whether or not projects earlier on the queue would be constructed. If a non-contingent project is selected, the developer will have greater certainty about whether the interconnection cost estimates are realistic, and thus will be best positioned to determine whether to move forward with a given project.

Alternatively, the IPA could establish a threshold for contingent upgrade costs, and give priority to those projects which can demonstrate based on their interconnection study results that they have contingent upgrade costs less than, for instance, \$200,000.

Prioritizing projects with non-contingent upgrade costs will also improve geographic dispersion of projects, by avoiding REC awards to multiple projects on a single circuit.

2. Contract Reallocation and Project Rankings.

Recommendation: The IPA should provide that if two projects swap their REC contracts using the Contract Reallocation mechanic after the lottery, the deselected project should swap to the selected project's lottery ranking, rather than moving to the end of the lottery ranking lists.

Comment: During the IPA workshop held on Sept 17th, 2018, the Program Administrator said they were undecided on whether swapping a REC between two

projects would result in the swapping project receiving the lower lottery position or being moved to the last position in the lottery. If the IPA keeps the Contract Reallocation provision, it should allow the second project to receive the lower lottery number of the swapped projects, rather than being moved to the last position in the lottery.

Losing a lottery position after a swap would only cause harm to those developers who are submitting only constructible projects. It would cause no harm at all to those developers gaming the system and submitting completely unbuildable projects simply to gain extra lottery tickets.

On the workshop call, the program administrator stated “perhaps the cost of switching a queue position is to lose one of the spots”. This cost would only be borne by developers like Trajectory who have focused on developing quality projects and not gaming the system. If Contract Reallocation is allowed, Trajectory would use the mechanic to ensure we build our most constructible projects as intended by the IPA. We intend to maintain and build any swapped project that receives a lower lottery position.

A developer who is submitting sham projects would have no concerns with the swapped project being moved to the end of the lottery list. In fact, to prevent sham projects from being submitted, the IPA should make this cost significantly higher, as we propose below.

3. Interconnection Submission deadline.

Recommendation: Community Solar projects should not be eligible for submission into the Community Solar Lottery if the interconnection request was submitted to a utility after September 9th, 2018.

Comment: The Contract Reallocation mechanic proposed in the September 10th, 2018 Strawman created significant moral hazard for the program, as developers now had some certainty that they could submit a non-construction-ready project to the lottery in order to win another lottery ticket, without any consequence. The flood of interconnection applications after September 10th as reported by Ameren and ComEd is evidence that some projects were submitted very late in the program lifecycle in order to game additional tickets in the lottery. While there may be a few projects in these submissions, any developer who submitted after September 9th would know that given current interconnection study processes in both Ameren and ComEd, the relevant

utility would be unlikely to produce an executable Interconnection Agreement by January 15th, 2019 in any event. Both Ameren and ComEd had previously communicated to developers that they were unlikely to finish the study process for interconnection requests being submitted in late summer 2018 in time for a January 2019 lottery opening. Had Ameren and ComEd maintained the normal process required under Part 466, these projects would have been extremely unlikely to meet the lottery deadline.

Given these factors, an even earlier cutoff date would be reasonable, but a September 9th cutoff date is both defensible and reasonable. It would have the added benefit of freeing up utility resources to provide developers with more information about their projects (as described below) which will be critical for developers to select their projects to both lottery submission and contract reallocation.

4. Co-located Projects.

Recommendation: The Community Solar Lottery should prioritize one of any two or more co-located projects using the same mechanism as the priority for small subscribers.

Comment: The lottery should require that developers identify any co-located projects that they submit, and prioritize one of those two projects. While co-located projects will receive a lower REC price, there are a few reasons to ensure that only one of any two co-located projects are given a REC in the initial lottery. First, it will increase the geographic dispersion of community solar projects and their attendant benefits. Second, it is likely to result in awards to a broader set of developers.

It is also important to recognize that co-location is a new concept in the Adjustable Block Program, and over year of development efforts occurred before the ICC reversed the IPA's prohibition on co-location. Consistent with the expressed intent of FEJA, the IPA's initial draft of the LTRRPP issued on September 29, 2017 prohibited co-location of more than 2MW of community solar, and the LTRRPP filed for Illinois Commerce Commission approval on December 4, 2017 reiterated the prohibition on co-location of more than 2MW of community solar projects. The ICC's Proposed Order issued February 26th 2018 also supported the prohibition on co-location, and focused on the benefits of geographic dispersion of projects. The prohibition on co-location was not reversed until the ICC issued the final Proposed Order on April 3rd, 2018.

The original reason to support co-location is no longer relevant. The ICC supported limited co-location on the basis of lowering the risks of project development based on the potential for shared interconnection costs lowering the total cost per MW. At the time, the ICC may have been reasonably concerned that there would not be sufficient interest in the ABP if development risks were not mitigated. The first rapid uptick in interconnection submissions occurred after the ICC reversed the co-location prohibition on April 3rd, 2018.

Based on the demonstrated avalanche of proposed projects, it is now clear that developers are willing to accept the risks of developing in a new market. More to the point, given the number of projects to be submitted, there is a fairly low likelihood that co-located projects will be selected in Block 1. Even if the second co-located project is eventually constructed under a later Block, the attendant benefits of lowered interconnection costs will not be realized.

5. Small Subscriber Priority.

Recommendation: The IPA should require significant evidence of intent to bring in small subscribers in order to receive the small subscriber commitment.

Comment: The limited penalty for failing to achieve small subscriber goals combined with the vanishingly small likelihood that any project will be selected in the Community Solar Lottery if it does not indicate a small subscriber commitment means that every single project is reasonably likely to make a small subscriber commitment, rendering the prioritization meaningless.

For example, the IPA could require one of the following: A) a redacted signed contract with an established provider of community solar subscription solicitation or management, B) evidence that the Approved Vendor or its Affiliate has solicited and managed community solar subscriptions for small subscribers previously, or C) evidence that the Approved Vendor or its Affiliate has interest from small subscribers representing 25% of the proposed project's capacity.

The evidence of small subscriber intent should be made consistent with a developer's commitment to abide by the forthcoming consumer protection rules, and at the same time will drive project developers to deliver constructible projects to their subscribers.

6. Application fees.

Recommendation: The IPA should require a significantly high bid assurance collateral for the Community Solar Lottery, above and beyond the existing collateral requirements in the LTRRPP.

Comment: The addition of a high collateral requirement will reduce the number of speculative projects with highly contingent interconnection upgrade costs, or that are otherwise non-constructible, and would be consistent with best practice from other states that required refundable application deposits.

7. Lottery requirement evidence.

Recommendation: The IPA should require the actual submission of the following evidence in connection with their Community Solar Lottery application:

- Redacted site lease.
- Special Use or Conditional Use Permit
- Signed Interconnection Agreement

8. Utility Recommendations

Recommendation: We note that the IPA has petitioned to intervene in ICC Docket No. 18-1503 regarding ComEd's request to alter the requirements of Part 466 with respect to community solar projects. In connection with the IPA's intervention in this proceeding, we believe that IPA should recommend the following:

- A. Upfront interconnection deposits of at least \$100,000 paid to ComEd prior to the lottery and upon signature of the interconnection agreement (or signature of the alternative documentation to be proposed by ComEd).
- B. Queue-clearing mechanisms such as those used in New York to ensure project developers are serious, which would include payment of $\frac{1}{4}$ of the interconnection cost within 30 days of the lottery results, and expulsion from the queue if interconnection agreement milestones are not met.
- C. ComEd should publish anonymized queue and interconnection cost data on a substation by substation basis prior to the lottery.

D. Interconnection Agreements, or their equivalent, should not be issued for projects with non-contingent interconnection costs in excess of, for example, \$1.5 million.

9. Additional Block Funding.

Recommendation: The IPA should be prepared to quickly apply a portion of the 25% discretionary funding towards the Community Solar ABP if Blocks 1 through 3 are filled by the lottery, after a 20 business day evaluation period.

Comment: While it is reasonable to reserve some portion of the 25% holdback for other uses after additional evaluation of the program, there is no reason to delay funding for portions of the Adjustable Block Program that have resulted in significant market interest and development efforts to bring solar to communities across Illinois.

IV. Conclusion

Trajectory would like to reiterate our appreciation for the thoughtful and significant efforts that have gone into the implementation of the LTRRPP for Community Solar, and we look forward to continue working with the IPA to bring solar to communities across Illinois.

Thank you for your consideration.

Respectfully submitted,

/s/ Josh Bushinsky

Josh Bushinsky

Partner

Trajectory Energy Partners, LLC

P.O. Box 310

Highland Park, IL 60035

jbushinsky@trajectoryenergy.com