ENVIRONMENTAL LAW & POLICY CENTER
Protecting the Midwest's Environment and Natural Heritage

Comments of Environmental Law and Policy Center
on the Illinois Power Agency's Draft Long-Term Renewable Resources Procurement Plan

INTRODUCTION

The Environmental Law and Policy Center (ELPC) appreciates the opportunity to provide comments to the Illinois Power Agency (IPA or Agency) in response to the release of its Draft Long-Term Renewable Resources Procurement Plan (LTRRPP or Plan). ELPC has spent years advocating for the expansion of clean energy in Illinois, specifically to ensure the success of Illinois' Renewable Portfolio Standard (RPS). ELPC participated in the IPA's workshops and comment process on the LTRRPP in summer 2017 and has engaged in extensive outreach, both with the renewable industry and environmental advocates. ELPC is also an active participant in the Illinois Solar for All Working Group. ELPC draws on this experience to inform our comments on the draft Plan.

The LTRRPP will guide the procurement of all renewable resources – with the exception of those procured through the initial forward procurement – to meet the state's goals of developing new renewables in order to avoid and reduce pollution, diversify the state's electricity supply, and enhance the public health and well-being of Illinois residents (20 ILCS 3855/1-5(6)-(8)). With limited exceptions, ELPC believes that the broad tenets and approaches proposed by the Agency in its draft Plan interpret the law correctly and are effectively-designed to meet its various goals. In particular, ELPC commends the Agency for:

- Prioritizing forward procurements over spot procurements and focusing on procurements that result in the development of new renewable energy facilities, in line with the goal and spirit of Public Act (P.A.) 99-0906;
- Emphasizing predictability, transparency, and simplicity in the set-up of its proposed programs and particularly the Adjustable Block Program;
- Proactively addressing consumer protection issues and putting a framework in place to weed out bad actors;
- Proposing a community solar program that will bring greater access to solar energy for Illinois residents and businesses; and
- Considering the recommendations of low-income and environmental justice advocates in the design of the proposed low-income solar program: Illinois Solar for All.

The proposed Plan clearly reflects the IPA's inclusive process and ample consideration of stakeholder input, obtained through workshops over the summer, requests for comments, and multiple meetings with stakeholders.

ELPC supports the vast majority of the draft Plan and the comments will begin by highlighting some of the areas where ELPC particularly supports the Agency's proposal.

However, ELPC does see some targeted need for improvement in the draft Plan, in particular to align with the legislative intent of a long-term plan that considers the lifetime of the Renewable Portfolio Standard (RPS), through 2030. ELPC's comments will highlight two Plan elements that, if implemented as proposed, create unnecessary risks that could undermine the IPA's ability to meet legislative goals and use the RPS budget as efficiently as possible over the long-term: (1) the prioritization of spot procurements ahead of forward procurements, the Adjustable Block Program, and the Illinois Solar for All program in the early years of the Plan and (2) the approach to setting and controlling initial Adjustable Block Program prices and blocks. It is important that the Agency's Plan take a long-term view on achieving RPS targets and goals through both its procurements and programs and, where uncertainty clouds that view, plan for uncertainty.

ELPC's comments will focus first on these two plan elements and the corrections and steps the Agency should take to avoid over-procuring spot resources or overpaying for the ABP in a manner that could frustrate IPA Act goals around new wind and solar development over the long term. The comments will then go on to address several other recommendations to improve the Plan. Throughout these comments ELPC will emphasize the importance of taking a long-term perspective and following the clear legislative guidelines to develop a plan that prioritizes new wind and solar development over short-term RPS percentage targets (20 ILCS 3855/1-75(c)(1)(B)). Adhering to these guidelines and taking a long-term view is critical to achieving legislative goals and maximizing the environmental, public health and well-being benefits of the RPS.

AREAS IN PARTICULAR SUPPORT

ELPC is generally supportive of the Agency's draft Plan and views the following elements and passages of the proposed Plan as both accurate in their understanding of the law and likely to be effective in successfully implementing the RPS and achieving the goals of P.A. 99-0906:

- **Focus on the development of new renewable resources.** P.A. 99-0906 clearly emphasizes the importance of developing new renewable resources in order to avoid and reduce pollution, diversify the state's electricity supply, and enhance the public health and well-being of Illinois residents (20 ILCS 3855/1-5(6)-(8)). It clearly prioritizes the procurement of new renewables over the procurement of existing renewables (20 ILCS 3855/1-75(c)(1)(B)). Therefore ELPC supports those sections of the draft Plan that emphasize and prioritize the importance of the developing new build, including but not limited to discussion that appears in the following sections:
    - The Changing RPS Framework (Section 1.1),
    - Procurements for RECs from New Projects vs. RECs to Meet Annual Goals (Section 5.7), and
    - Other Renewables 15-Year Forward Procurement (Section 5.8.3).

  ELPC does, however, recommend one specific language change to more accurately reflect legislative intent:

> **Section 1.1, p. 2:** While the RPS previously contained percentage-based carve-outs for specific technologies, the RPS now contains specific quantity-based targets for RECs from new wind and new solar and brownfield site solar projects. These goals for the development of new renewable resources now must be considered and ~~balanced with~~prioritized over the need to meet annual percentage-based goals.

ELPC also generally supports additions and modifications to the Plan that emphasize the prioritization of the development of new renewable resources suggested by other commenters.

- **The IPA's interpretation of the language around additional funding of the Illinois Solar for All program in Section 1-75(c)(1)(O) of the IPA Act.** ELPC agrees that the intent of this language is not to constrain the Agency's ability to separately allocate funds from the RERF for use in the Illinois Solar for All Program, and that the language should be read to mean that Agency retains this discretion (Plan at Section 2.2.5.3, p. 17-18).

- **The IPA's understanding of the requirement for Balancing Expected Wind RECs vs. Solar RECs to not apply to the initial forward procurements.** Specifically, ELPC agrees with the IPA's understanding that the balancing requirement "is not intended to be applicable to results from the Initial Forward Procurements, at least initially," and that "this requirement becomes applicable to its planning process after June 1, 2021, the latest date for first delivery of RECs from the initial forward procurements." (Plan at Section 2.4.5, p. 30). This is clearly aligned with the intent of the law, revealed by both the legislatively set timelines for the initial forward procurements (which allow the initial forward procurement for solar to occur later than for wind), as well as the language implementing the matching requirement "at any time after the time set for delivery of renewable energy credits pursuant to the initial procurements," (20 ILCS 3855/1-75(c)(1)(G)(ii)&(iv)).

- **ELPC supports the Agency's approach to ensuring geographic diversity.** Geographic diversity of project deployment is extremely important, but there is currently limited data on geographic barriers to solar development throughout Illinois. Further, as the Agency notes in its draft Plan, experience from past Illinois SREC procurements indicates that project deployment "[has] been well distributed across the state." (Plan at Section 6.5, p. 100). Thus, the Agency's current proposal to *not* to add any sort of special adder or incentive to encourage geographic diversity, but rather to continue monitoring this issue and take action if necessary, is appropriate and a prudent use of limited funds. As ELPC noted in its comments last summer, the IPA should make targeted changes to ensure geographic diversity if and when barriers to geographic diversity arise and after input from stakeholders. The long-term nature of the LTRRPP means that short-term imbalances in geographic diversity, while not ideal, do not risk thwarting the legislature's intent. ELPC does suggest the following additions to the IPA's language to fully clarify the intent to monitor and report on geographic diversity going forward:

- **Section 2.5.1.1, p. 32:** At present, the Agency believes that no special incentive or adder based only on geographic diversity is necessary to ensure that this objective is met, but commits to monitor and report on the geographic distribution of systems and review this issue in the next revision and future revisions to the Plan. (The Agency notes that the first Plan revision may follow too soon after the opening of the program to allow for a fair assessment of the geographic distribution of systems.)

- **Section 6.5, p. 100:** Nevertheless, the Agency will monitor and report on the geographic distribution of systems and review this determination as part of ~~the~~ Plan updates, and if geographic diversity is not being sufficiently achieved, the Agency may propose a geographic adder in the future to encourage projects in underrepresented areas. (The Agency notes that the first Plan update may follow too soon after the opening of the program to allow for a fair assessment of the geographic distribution of systems.)

- **Proposal to "conduct the procurement of RECs under this Plan based on statewide RPS goals and targets, rather than viewing those targets by utility."** (Plan at Section 3.1, p. 43). As the IPA highlights, this is in line with the statewide, rather than utility-specific goals laid out in the IPA Act. Renewable facilities developed anywhere in Illinois will help avoid pollution, diversify the state's electricity supply, and enhance the public health and well-being of Illinois residents in line with the goals of the IPA Act (20 ILCS 3855/1-5(6)-(8)). Nonetheless, ELPC urges the IPA to monitor where within the state renewables projects are developed to ensure geographic diversity.

- **Proposal "to set aside the uncommitted balance of [the Hourly Alternative Compliance Payment] funds for use at a later date in the event that unforeseen circumstances cause a shortfall in the Available RPS Budget of either Ameren Illinois or ComEd; the uncommitted funds could also be a source of the available funds used to help support the Illinois Solar for All Program."** (Plan at Section 3.19, p. 58). Any of these is a reasonable and prudent use of funds designated for renewable energy, and the flexibility to use these funds as circumstances dictate reflects an accurate assessment of the uncertainty inherent in planning for the long-term. This proposed use of the Hourly ACP funds will best ensure the IPA is able to stay on target to meet the various RPS goals.

- **The Agency's intent to "procure additional RECs under long-term contracts to prepare for meeting the goals for future delivery years**." (Plan at Chapter 5, p. 71). ELPC agrees that, even after meeting interim targets around the development of new wind and solar resources, additional procurements will be necessary to meet percentage-based RPS goals over the long-term. Furthermore, the IPA Act clearly prioritizes meeting the targets around the development of new wind and solar resources above the percentage-based RPS goals (20 ILCS 3855/1-75(c)(1)(B)), calls for long-term rather than annual planning (20 ILCS 3855/1-75(c)(1)(A-B)), and seeks to achieve the public benefits brought by new renewable development (20 ILCS 3855/1-5(6)-(8)). This approach, which aims to build a portfolio of new renewable resources to meet the percentage goals over the long-term, maximizes and harmonizes all three of these aspects

of the IPA Act. Furthermore, ELPC notes that the explicit prioritization of new build make it prudent for the IPA to devote resources to meeting both interim and final targets around the development of new wind and solar resources before focusing on other goals.

- **The forward procurement schedule proposed by the Agency, including each of the seven procurements and the logic explained on the order, timing, and quantities of each**. The IPA spends nine pages of its Plan discussing the logic for decisions on timing, order, and quantities for each of these procurements (Plan at 79-87) and ELPC will not rehash that discussion, but rather notes its general support thereof (unless otherwise noted below). ELPC particularly supports the use of minimums, where in use, and generally notes that larger procurements can attract more market participants, driving more competitive pricing. ELPC has some specific recommendations around several of these procurements, which it will outline further below, and endorses the suggestions made in the Illinois Solar for All Working Group comments regarding the Low-Income Community Solar Pilot Project.

- **The simplicity of the initial proposed set-up of the Adjustable Block Program (ABP), including using only two different Block Groups and using adders rather than additional categories to distinguish between project sizes** (Plan at Section 6.3.1, p. 95). ELPC believes carving up the various blocks too much can actually discourage participation in the ABP as when blocks get too small, the market opportunity for any one firm in one particular niche shrinks, discouraging their entry into the market in the first place. The IPA made the right choice to limit the number of different Block Groups and categories.

THE IMPORTANCE OF LONG-TERM PLANNING

As the IPA correctly notes in Section 2.2.4 of its draft Plan one of the most significant changes made to renewable resources procurement in Illinois through P.A. 99-0906 is the switch from an annual to a long-term planning process that runs through 2030 (Plan at 12). While the long-term plan requires updates every two years and there are interim goals set before 2030, the ultimate planning horizon spans the next 13 years.

As part of taking a long-term perspective, the IPA must think about potential for conflict in a long-term way. It is not enough to conclude that conflict is unlikely during the first two years of the plan or until after delivery year 2020-2021, if there is a chance that the IPA will fall short of resources to meet long-term new build requirements in later years of the plan. Furthermore, the IPA cannot delay thinking about delivery years after 2020-2021, because decisions made now will affect the budget in those years. The statute calls for a *long-term* plan that is revised every two years-- not a series of short-term two-year plans. So if there is any chance that the Plan will fall short of resources to meet long-term goals and targets, then the IPA needs to take that into account and err on the side of caution to avoid squandering resources on lower priority or overpriced REC procurements that limit the longer-term benefits for the state of Illinois and its people.

ELPC appreciates that long-term planning is difficult and marred with uncertainty. The IPA's task, therefore, is to plan for the long-term by planning for this uncertainty. To better reflect this task, ELPC suggests the following language additions:

> **Section 2.2.4, p. 12:** By contrast, the Long-Term Renewable Resources Procurement Plan is initially prepared once, revised at least every two years, and "shall include procurement programs and competitive procurement events necessary to meet the goals"[34] set forth in Section 1-75(c) of the IPA Act—which contains annual targets out until 2030. This Plan will therefore take a long-term view of the RPS goals through 2030, and work as best as possible to achieve those goals, subject to explicit IPA Act prioritization and budget availability. As explained in the Chapters that follow, as budget availability and possible program successes or failures makes detailed planning far into the future unwise or unworkable, in some cases the Agency proposes that certain decisions be deferred until future years' revisions of the Long-Term Renewable Resources Procurement Plan.

ELPC believes the IPA's draft Plan largely reflects a shift toward long-term planning, however there are places where this shift does not go far enough, resulting in a plan that ELPC believes imprudently risks failing to meet the various goals and priorities set out by law in the IPA Act. In particular, ELPC is concerned that, as proposed, the IPA's Plan risks over-procuring spot resources or overpaying for the ABP in a manner that could undermine new wind and solar development over the long term, ultimately resulting in a set of programs and procurements that fail to align with the goals and priorities of the IPA Act. To address these issues, ELPC has two key recommendations:

FIRST KEY RECCOMMENDATION: The Agency Should Delay any Decision to Conduct Spot Procurements Until the Next Planning Period.

The IPA Act very clearly prioritizes procurement of new resources over spot procurements. Section 1-75(c)(1)(B) requires both a "long-term" planning horizon as well as the explicit prioritization of new build over RPS percentage targets. In combination, this requires the IPA to take a conservative approach to ensure that sufficient resources are available to meet these new build goals over the long term. Furthermore, the IPA seems to correctly interpret this prioritization in the plan, as already discussed above. The IPA even asserts that The Plan "focuses first on 'Forward Procurements' that seek RECs from new projects, and secondarily on 'Spot Procurements' to meet annual RPS percentage goals." (Plan at Section 1.1, p. 2). However, despite this assertion, the Plan proposes Spot procurements even though there is reason to be concerned that budget may not be available to meet higher priority new-build goals.

The IPA calculates estimated annual available RPS budgets in Table 3-15 through delivery year 2020-2021(Plan at Section 3.17.1, p. 57). That budget does not account for the IPA's proposal to initially "set aside 3% of the budget for administrative expenses," (Plan at Section 3.17.1, p. 55), the utility funding for the Illinois Solar for All program beginning in the 2018-2019 delivery year laid out in Table 8-1 (Plan at Section 8.4.2, p. 141), or the $10 million set aside for job training in the 2017-2018 delivery year (Plan at Section 3.17.1, p. 55). Given that "through the 2020-2021 delivery year, unspent funds can be rolled over from one year to the next," (Plan at Section 3.20, p. 59), these numbers can be used to calculate a total available RPS budget -- less

administrative and Illinois Solar for All expenses -- for the 2017-2018 through 2020-2021 delivery years. Calculated in the table below, that budget comes out to be $583 million.

Delivery Year	RPS Budget	Contracted REC Spend	Estimated REC Spend Initial Forward Procurement	Available RPS Budget (est.)	3% Set-Aside for Admin Expenses	Utility Funding for IL Solar for All + Job Training*	Available RPS Budget Less Admin Expenses (est.)
2017-2018	$141,806,259	$33,242,248		$108,564,011	$4,254,188	$10,000,000	$104,309,823
2018-2019	$189,960,753	$31,469,244		$158,491,509	$5,698,823	$10,000,000	$142,792,686
2019-2020	$234,276,005	$31,594,913	$11,036,000	$191,645,092	$7,028,280	$11,713,801	$172,903,011
2020-2021	$234,003,329	$30,960,189	$11,036,000	$192,007,140	$7,020,100	$11,700,167	$173,286,873
Total	**$800,046,346**	**$127,266,594**	**$22,072,000**	**$650,707,752**	**$24,001,390**	**$43,413,968**	**$583,292,394**

ELPC modeled the budget commitments from the Adjustable Block Program using the IPA's stated assumption that each block corresponds to a year's demand from the program, beginning with the 2018-2019 delivery year. Even using just the lowest available price from each block (i.e. assuming no adders) and assuming that half of the community solar projects use trackers with the IPA's stated capacity factors, these assumptions result in a total budget commitment of $595 million through the 2020-2021 delivery year (calculations attached as Appendix - ELPC LTRRPP ABP Model).

This analysis suggests that the ABP by itself, with zero use of adders, has the potential to use all of the Available RPS Budget through delivery year 2020-2021. Obviously it is unrealistic to assume zero use of adders. Furthermore, this analysis does not account for the impact of the proposed forward procurements, which – as new build – is higher priority than the spot procurements. Nor does the analysis account for the significant uncertainty around ABP prices due to the net metering cap adjustment, smart inverter rebate, federal solar investment tax credit adjustment, and potential for tariffs on foreign photovoltaic modules and cells, discussed in Sections 6.8.1-6.8.4 of the Plan (p. 105-107). **In short – notwithstanding the IPA's assertion to the contrary** (Plan at Sections 2.2.5.2 & 3.20, p.14-15 & 59) **– there is good reason to believe that the entirety of the budget through delivery year 2020-2021 could be required for new build resources.**

Despite the risk for conflict between new build and spot procurements, the IPA proposes three spot procurements in its draft Plan – totaling 38 million RECs. Even if the IPA is able to contract these RECs for $1/REC[1], this would still imply a $38 million hit to the available budget – almost double the estimated cost of the first two years of the initial forward procurement (Plan at Section 3.17.1, p. 57). These first three procurements in particular will be right at the outset of implementation, well-before the IPA has achieved any sightline into the budget necessary to achieve higher-priority new build goals.

IPA correctly recognizes that spot procurements are unlikely to result in new build. This is why the legislature deprioritized the percentage goals in relation to the new build goals. When

[1] This would be slightly higher than the average price for the 2012 REC procurements, but that seems prudent given the greater quantity of RECs required and the change to eligibility requirements that narrows the pool of eligible resources.

making choices between spot and new build procurements in the long-term plan, the IPA should rely on the legislative purposes of the RPS. Spending $38 on spot procurements will promote none of the public health and environmental goals of the statute.

In fact, to the extent that spot procurements use resources that could be spent on new build, spending money on spot procurement could undermine legislative intent. The results of the initial forward procurement indicate that it is possible to get RECs that are extremely cost effective from new build resources. This, combined with the clear legislative intent to promote public health and reduce pollution, casts doubt on the appropriateness of using spot procurements at all.

Furthermore it makes little sense to spend money on spot procurement early on when the ability of funds to be rolled over through 2020-2021 and the IPA's own research on unretired RECs indicates there is not urgency to spend money in any particular year. Based on the IPA's research, it is clear that there are significant numbers of unretired RECs that could be available to meet goals after the fact. In Section 5.9, the Agency notes the existence of 10 million unretired wind RECs from the 2016-17 delivery year in Illinois, Wisconsin, and Iowa alone (not accounting for other adjacent states or other resources) (p. 89). This suggests the IPA should not have a problem procuring RECs on a delayed basis. If it does, that is all the more reason to focus resources on the development of new renewables – to get RECs under contract to help meet annual goals over the long-term in the event that there will not be enough spot RECs available to meet said goals. In other words, there is no downside to amending the plan to delay decisions on running spot procurements until at least the first Plan update. The legislature has provided budget flexibility over four years and the Agency can reevaluate and readjust the Plan after it has a better line of sight on the budget. This initial Plan is where there is going to be the greatest uncertainty and the most need for careful, conservative choices.

Given the clear prioritization of new build resources in the IPA Act, the significant uncertainty around procurement and program costs, and the ability to delay spot procurements with no ill consequences, it is inappropriate to procure *any* RECs through spot procurements to meet annual goals until certainty that ABP and forward procurement targets will be met over the lifetime of the Plan (i.e. until 2030). This means it is inappropriate to spend any money on spot resources at least before the next Plan update and potentially not until the end of the 2020-2021 delivery year. Therefore, ELPC suggests the following changes to IPA's draft plan:

- **Section 1.1, p. 2:** Combined with a more general goal to emphasize the procurement of RECs from new projects, the design of the range of procurements contained in this Plan, while building on previous procurements conducted by the Agency, focuses first on "Forward Procurements" that seek RECs from new projects to meet both new renewable resource development as well as annual RPS percentage goals, and ~~secondarily on~~ will turn to "Spot Procurements" to fill in any gaps in meeting annual RPS percentage goals in future Plan updates.

- **Section 1.2, p. 3:** Chapter 5 describes the competitive procurements the Agency proposes to conduct. These include:
  ~~• Spot Procurements for 2017-2018 and 2018-2019 delivery years (any resource)~~
  • First Subsequent Forward Procurement (new utility-scale wind RECs)

• Brownfield Site Photovoltaic 15-Year Forward Procurement
• Forward Procurement for 1 Million new Photovoltaic RECs
~~• Spot Procurement for 2019-2020 delivery year (any resource)~~
• Second Subsequent Forward Procurement (new utility-scale wind RECs)

- **Section 2.2.5.1, p. 13:** As a consequence, the IPA believes that although its Plan may not be approved by the Commission until late March or early April of 2018, this Plan should propose procurements necessary to meet "2017 delivery year" targets, as long as funds are available after meeting other goals that have higher priority, as determined by 1-75 (c)(1)(B) of the Illinois Power Agency Act, as well as targets for future delivery years. Further discussion of the prioritization of various goals can be found in Chapter 3, and further discussion of those proposed procurements can be found in Chapter 5.

- **Section 2.2.5.2, p. 14-15:** The IPA cannot say with any degree of certainty that these goals will not come into conflict at this early point in the planning process. ~~does not anticipate any such conflict prior to its next revision of this Plan, and~~ While the IPA has designed its Plan in a manner that reduces the likelihood of any such conflict occurring, the high degree of uncertainty around ultimate REC prices makes conflict possible. However the legislature purposely imparted flexibility over spending in the early years of the updated-RPS implementation (discussed further in Chapter 3). Combined with the availability of RECs for previous delivery years post-facto, that means the IPA does not have to decide to spend resources on Spot Procurements to meet the annual percentage goals right now, but can defer that decision until the next Plan update, after it has more certainty around budgeting. ~~(for instance, through using short-term contracts to meet percentage-based delivery year goals after new build is accounted for).~~

- **Section 3.20, p. 59:** Given that the proposals contained in this Plan will not launch until the 2018-2019 delivery year~~, and only limited funds would be spent for a spot procurement to attempt to meet the 2017-2018 delivery year goals,~~ the Agency expects that the amount of accumulated roll-over in the initial years could be substantial.
  ~~In light of those~~ Despite these observations, the Agency does not ~~expect that~~ know whether the procurements and programs proposed in this Plan ~~will~~ could be limited by available RPS budget funds ~~through at least the 2020-2021 delivery year~~.

- **Chapter 5, p. 71:** In combination with the programs described in Chapters 6, 7, and 8, subject to any limitations created by the RPS budget caps, these competitive procurements are intended to fully meet the RPS REC goals outlined in Sections 1-75(c)(1)~~(B) and~~ (C)~~, and identified in Chapter 3,~~ through the 2019-2020 delivery years, and also procure additional RECs under long-term contracts to prepare for meeting the goals for future delivery years.
  ~~This Chapter contains proposals using~~ The IPA proposes two types of competitive procurements that could be used to meet RPS goals: Forward Procurements, and Spot Procurements.

- **Section 5.4, p. 76:** For Spot Procurements, such as those ~~proposed~~ discussed in Section 5.9 below, ~~there will~~ would not be the same level of initial screening of eligibility because the Spot Procurements ~~are~~ would not be unit-specific, but the procurement rules and contracts ~~will~~ would clearly state that the obligation and responsibility (and potentially penalties) of delivering eligible RECs (as coded eligible in GATS or M-RETS) ~~will~~ would reside with the winning suppliers.

- **Section 5.7, p. 78-79:** The IPA proposes to implement the competitive procurements summarized in Table 5-1 ~~and Table 5-2~~ below.

~~**Table 5-2: 2018 and 2019 Spot Procurements Summary**~~

Section	Procurement	Technology	Type [221]	Procurement Date	Term	Delivery Start	Annual REC Target[222]
5.9	2018 Spring Spot	Any[223]	Any	Spring 2018	One Year	2017-2018	7.5 million[224]
5.9	2018 Summer Spot	Any[225]	Any	Summer 2018	One Year	2018-2019	12.9 million (est.)[226]
5.9	2019 Summer Spot	Any[227]	Any	Summer 2019	One Year	2019-2020	18.1 million (est.)[228]

- **Section 5.8, p. 82:** ~~(Forward Procurements would not to be able to meet REC Goals for the 2017-2018 or the 2018-2019 delivery years; Spot Procurements as discussed below will instead be used for RPS goals for those years.)~~

- **Section 5.8.3, p. 85:** This Forward Procurement will take priority over any Spot procurement ~~the 2019 Spot Procurement discussed in Section 5.9~~[244] because, as stated above, the Agency believes that the legislative intent of P.A. 99-0906 was to prioritize the development of new renewable generation.

- **Footnote 244, p. 85:** ~~The Spot Procurement proposed for 2018 would be for RECs for the delivery years 2017-2018 and 2018-2019, and therefore it is unlikely that any procurement of RECs from new resources would create an overlap in RECs procured to meet the REC targets for those years.~~

- **Section 5.9, p. 88-90:** *Retitle* "Spot Procurements" *and strike entire section and replace with:*

At this time, the Agency does not propose to conduct any Spot Procurements. The budget impact of the Forward Procurements already discussed in this chapter as well as the Adjustable Block Program, which will be discussed in Chapter 6 are highly uncertain. It is currently unknown whether or not the goals around the procurement for new renewable resources will come into conflict with the annual percentage RPS goals. It is likewise unknown whether, as the market scales up in Illinois, prices for new renewable resources will drop enough to meet annual percentage goals through predominately new resources, which would be in line with the legislative intent of the IPA Act to reduce pollution, diversify the state's electricity supply, and enhance the public health and well-being (20 ILCS 3855/1-5(6)-(8)).

Furthermore the legislature purposely gave the Agency flexibility over spending in the early years of the updated-RPS implementation (discussed fully in Chapter 3). Combined with the availability of RECs from previous delivery years post-facto, this means that the IPA does not have to decide to procure Spot resources in this initial Plan to meet the annual percentage goals, but can defer that decision until the next Plan update, after it has more certainty around budgeting.

- **Section 5.10, p. 90:** This Chapter has focused on competitive procurements to be conducted in 2018 and 2019 designed to meet ~~annual RPS percentage goals through the end of the 2019-2020 delivery year as well as meeting~~ the specific technology-based RPS targets through the end of the 2020-2021 delivery year, including the 2 million RECs each from new wind and photovoltaic projects and the 2% requirement from brownfield site photovoltaics. At this time, the IPA is proposing to review updated load forecasts, budgets, and actual program and procurement results as part of its review and revision of the Plan to be conducted in 2019 for implementation in 2020, and will propose specific procurements to meet future years' targets as part of that Plan revision. These revisions will include an assessment, based in part on a better understanding of the cost of RPS implementation and impacts to the budget, detailing how to meet the annual RPS percentage goals, including, potentially, through proposing Spot Procurements.

SECOND KEY RECCOMMENDATION: The Agency must refine its approach to setting and controlling initial Adjustable Block Program prices and blocks or risk an inefficient utilization of the limited RPS budget that could ultimately undermine the IPA's ability to meet the legislatively mandated RPS goals, including the goals around the new build of renewable resources.

The goal of the Adjustable Block Program (ABP) is to provide the transparency and stability that companies need to invest in the market while simulating the natural adjustments that would occur in the competitive market's prices over time. The ABP must strive to mimic declines in price due to technological innovation and the downward pressure of competition, as well as adjustments due to changes in tax treatment, net metering, and/or the introduction of tariffs – all while utilizing a limited budget and meeting RPS goals over the long-term. This means that the ABP set-up must balance not only market conditions, but budget realities and the long-term RPS priorities and goals. Key to this balancing act is properly setting initial prices and block sizes *as well as* putting safeguards around those initial prices and sizes to ensure the program does not run out of control if, despite the best available considerations, either is set incorrectly.

Setting initial prices: The IPA has chosen to use a model of solar pricing to set initial Adjustable Block Program prices (one of several potentially valid approaches to setting initial prices). Given this choice, however, the IPA must take several additional steps to refine its approach to price-setting, beyond what it has proposed in the draft plan. Specifically, the IPA must:

- **Spend time and resources over its 21-day review period correcting errors in the initial model and adding better input data, where available.** ELPC has heard from multiple reviewers and confirmed with a cursory internal review that the draft model contains significant errors. In particular, ELPC urges the IPA and its consultants to review the elements of the model relating to net metering, interconnection costs, and the availability of the rebate with the various IOUs that either have better data on or will directly administer these aspects of project cost. ELPC believes that at least the first two of these elements are incorrect as currently input into the model. Furthermore, while unrelated to pricing, the IPA should also use these meetings to confirm understanding of

various IOUs' interconnection processes vis-à-vis the proposed process for participation in the Adjustable Block and IL Solar for All programs – ELPC is not aware of any specific problems that have yet arisen here, but notes that the proposed participation process relies on interconnection so a clear and accurate understanding is important.

- **Apply critical thought to model results to determine where to set initial prices and establish guidelines and/or a process for price adjustments in the event prices are too low or too high.** Setting ABP prices is, ultimately, a policy decision. Modeling is a tool that the IPA has chosen to inform that decision, and, like many other tools, an imprecise one. The only certainty any modeler has about his or her model is that actual reality will play out differently. Hopefully, only a little differently, but differently nonetheless. The IPA acknowledges in its draft plan that incentives have often been set at too-high a level in previous attempts at administratively-determined prices. (Plan at Section 6.2.1, p. 92-93 & Appendix C) This reflects some of the inherent challenges related to modeling and forecasting, particularly in a dynamic market environment such as the solar market.

  The Plan indicates that the intent of the REC Pricing Model is to model a REC price "for typical systems." (Plan at Section 6.4, p. 96) The IPA should keep in mind that pricing for "typical" or "average" systems may not be appropriate starting place for the ABP. Instead, the IPA should set prices to mimic the market efficiencies inherent in competitive processes to the maximum extent possible. Competitive procurements do not award contracts to the "typical" or "average" bids. They award contracts to the lowest price "winning" bids necessary to meet volumetric goals (i.e. to match supply with demand). Depending on the volumetric goals for a particular product, setting ABP pricing based on "averages" may not capture the potential for competitive market efficiencies, leading to an inefficient use of the limited RPS budget.

  The IPA should carefully examine the model outputs and consider selecting a competitive price scalar to adjust the "average" or "typical" model outputs for each product type to appropriately competitive REC prices in light of various RPS targets and goals. ELPC recognizes that this is not an exact science, but the IPA does have data and experience it could use to inform this decision, including the incoming bids from prior and contemporaneous competitive procurements and the initial interest levels for community solar programs in other states. Ultimately, however, the IPA should recognize that using the "average" system REC price reflects a policy decision that "average" prices are appropriate for administrative pricing, when in fact the specific market environment in Illinois may not support that conclusion. It is very important to take a hard look at the outputs of the model to determine whether they are reasonable and "in the ballpark," regardless of how confident the IPA is in the quality of the inputs.

  Furthermore, ELPC supports the IPA's intent to carefully monitor market response to inform adjustments to ABP prices (Plan at Section 6.8, p. 105). The model is useful to the extent that it helps the IPA identify starting prices for the ABP that are "in the ballpark." Once the ABP opens, market response and program structure should drive the prices, not the model. Over time, the market response to the ABP should tend to reach an

equilibrium that balances supply with demand at the pace necessary to maximize the various program goals within the budget available. If the market is overheated or underperforming, than the Agency should act quickly to make adjustments to keep the program on track. To ensure the IPA retains this flexibility to make these adjustments, ELPC suggests one addition to the Plan language:

> **Section 6.8, p. 105:** The Agency intends to wait at least six months after program launch before considering making significant changes to help encourage program stability. However, if program participation is extremely low or if it becomes clear that REC prices are set inappropriately high, the Agency may elect to act sooner than that.

Ultimately, the IPA's goal should be to set ABP prices as close to the level necessary to support long-term, stable solar market growth throughout Illinois, in line with legislative goals and priorities laid out in Section 1-75(c)(1)(B)-(C) of the IPA Act. Setting initial prices too low will stifle market growth and, if not swiftly corrected, could undermine the IPA's ability to achieve other, interrelated goals related to the development of new wind resources. Setting initial prices too high, even for one product, risks creating a boom environment that leads to a rush on the ABP, resulting in an inefficient use of the RPS budget and, in a worst-case scenario, committing so much of the RPS budget to a single or subset of projects up-front that too little is left to meet other RPS goals, including other new build goals.

- **ELPC believes setting prices too high is riskier than setting prices too low and urges the IPA to err on the conservative side.**

Other market rollouts have frequently set administratively-set prices too high, leading to a boom and bust. Illinois needs to learn from experience elsewhere. In Minnesota, for example, the MPUC set prices for its new community solar program at a level recommended by many solar industry participants. The relatively high pricing combined with the uncapped nature of the program and a generous "co-location" policy led to a rush on the program and more than 1 GW of applications coming in shortly after the program opened. All stakeholders have a strong interest in avoiding a similar outcome here.

Finally, the Program is called "Adjustable" rather than "Declining" Block (as has been the name of similar programs in other states) for a reason. The IPA can monitor and make necessary adjustments to increase pricing if necessary to generate market response and keep the program on track. In contrast, the IPA will struggle if pricing is too high and there is a gold rush that floods the program. In addition to significant administrative headaches and uncertainty, there is the risk of political backlash for unreasonable "subsidies" being awarded to solar companies. Even if the program eventually reaches equilibrium, there would be a great deal of uneconomic surplus expenditures for RECs that could have been procured at more competitive prices. This ultimately would lead to less funding available under the IPA's budget to procure additional renewable resources, which would frustrate the purpose of the program.

Setting initial block sizes: The IPA should alter two aspects of the proposed initial block sizes to eliminate the risk of a run-away program and ensure a smoother ABP experience that is set at the start to work for the long-term.

- **The Plan should not allow a completely uncapped volume of REC contracts to be entered into in the first block (and thus at the maximum price level) in the first 60 days of the program and should consider whether a cap is necessary for its 14-day soft-close proposal, as well**. Allowing unchecked entry into blocks undermines the natural check on overpricing of RECs created by the step down in prices between blocks. It also exacerbates the risk of a rush on the program. Under the normal course of block operation, if overly-high REC prices lead to a run on a block, the block will eventually run out, leading to a step-down in prices that corrects the overpricing. The sensible process the IPA has put in place to reserve a spot in the ABP should limit the likelihood of an uncontrolled run on the initial blocks. Nonetheless ELPC remains concerned, particularly about leaving the first block open for 60 days, based on the runs we have seen on other block programs (e.g. 1 gigawatt of community solar entered into the MN program shortly after opening) and the expectation of significant pent-up demand in Illinois. The IPA must consider this in the design of the ABP.

  ELPC understands that other commenters are suggesting specific alternatives to the unlimited 60-day opening of the blocks and 14-day soft close. ELPC believes that a number of these alternatives could work either individually or in combination, including placing an upward limit on the amount of the block that can be reserved after the capacity limit has been hit or the use of a lottery to determine which project get into the first block or which projects get grandfathered into the old block in the event that too many projects come in during a soft close period. Whatever route the IPA takes, however, ELPC urges it to consider the long-term budget impacts of a rush on the first or, potentially, subsequent blocks and place limits so as to provide maximum program flexibility without exacerbating potential shortfalls to the RPS budget in future years.

- **The Agency should not allocate the discretionary 25% of the ABP program to any of the block categories up-front.** The upfront allocation of the discretionary 25% of the ABP could limit the IPA's future flexibility to allocate those blocks in a manner that most efficiently utilizes the RPS budget to meet legislative goals – either because contracts are assigned earlier, higher priced blocks when it might have been more efficient to tack on additional lower priced blocks later in the program, and/or because once a block is allocated, market participants come to depend on that allocation and it becomes disruptive to the market to reallocate blocks. To implement this, ELPC suggests the following changes to the draft plan:

  - **Section 6.3, p. 94:** Therefore, the 25% that is left to the Agency's discretion will be allocated as future blocks (i.e. Block 4, Block 5, etc.) to market segments that exhibit demand for additional capacity. ~~evenly allocated across the three categories. In the Plan Update, the Agency will review and reallocate that 25% amount if needed~~. In the Plan Update, or before if deemed prudent, the IPA may

allocate multiple new capacity and pricing blocks to multiple size categories in both Groups, or all of the capacity to a single new capacity and pricing block in one size category in one Group.

~~The allocations will be:~~

- ~~33.3% for DG PV systems up to 10 kW (Small systems)~~
- ~~33.3% for DG PV systems greater than 10 kW and up to 2,000 kW (Large systems)~~
- ~~33.3% for photovoltaic community renewable generation projects (Community Solar)~~

- **Section 6.3.1, p. 95:** Table 6-1 shows the amount of nameplate capacity that will be initially allocated to each block for each group and category. The remaining 25% of unallocated capacity (168 MW) will be added at the IPA's discretion, either in the first Plan Update or before, to Block Groups and Block Categories that exhibit a demand for increased capacity.

Table 6-1: Illustrative Block Opening Volumes (MW)[2]

Block Group	Block Category	Block 1	Block 2	Block 3
Group A (Ameren Illinois, Mt. Carmel, Rural Electric Cooperatives)	Small	~~22~~ 17	~~22~~ 17	~~22~~ 17
	Large	~~22~~ 17	~~22~~ 17	~~22~~ 17
	Community Solar	~~22~~ 17	~~22~~ 17	~~22~~ 17
Group B (ComEd, Mid-American, Municipal Utilities)	Small	~~52~~ 39	~~52~~ 39	~~52~~ 39
	Large	~~52~~ 39	~~52~~ 39	~~52~~ 39
	Community Solar	~~52~~ 39	~~52~~ 39	~~52~~ 39
Total		~~222~~ 168	~~222~~ 168	~~222~~ 168

If the IPA makes these recommended changes to its draft plan regarding spot resources and the block structure and applies critical thinking to its use of pricing model, it will correct Plan inadequacies and ultimately give Illinois the best odds for meeting the various RPS goals and priorities set out by law in the IPA Act, and help ensure the fulfillment of the new renewable resources requirements over the long-term.

ADDITIONAL RECOMMENDATIONS TO ENSURE SUCCESSFUL PROCUREMENTS AND PROGRAMS

In addition to the above key recommendations intended to move the draft Plan to a truly long-term approach, ELPC has a number of other recommendations targeted at ensuring that various programs and procurements are as successful as possible and maximize the public health and well-being, energy supply diversification, and pollution reduction goals of P.A. 99-0906.

1. **The Agency should update its approach to incentivizing small-customer participation in community solar projects to satisfy the legislative requirement of**

[2] ELPC recognizes that if any utilities shift block groups, this should shift around the sizes of various blocks.

ensuring "robust participation opportunities for residential and small commercial customers…" (20 ILCS 3855/1-75(c)(1)(N)). ELPC believes that the proposal around small customer participation in community solar in the draft Plan – described in Section 6.5.2 Community Solar and Section 7.6.1 Residential Participation – is based on a number of mistaken assumptions. With the current proposed program design, ELPC believes the Community Solar Program will likely provide robust participation opportunities for large customers that cannot install solar energy on their own property, but will likely leave residential and, particularly, small commercial customers behind, in contravention of the IPA Act. Accordingly, ELPC has a number of suggestions to improve this element of the proposed Plan:

- **Change the focus from "residential subscribers" to "small customers" to better match: 1) the legislative focus on "residential and small commercial customers," 2) the reality of community solar project costs around serving many customers, and 3) the approach to successful community solar programs in other states.**

  To begin, it is worth noting that ELPC believes the Agency fundamentally misunderstood some of the comments made at the workshops this summer and in response to the request for comments around "residential subscribers." ELPC does not make this assertion lightly; it is informed by attendance at every workshop and extensive coordination with industry participants to fully understand challenges around creating a successful community solar program. Further, ELPC only brings this up because the agency directly addresses those comments in the draft Plan, asserting that: "small commercial customers were little discussed in comments or at the workshop." (Plan at Section 7.5.1, p. 130-131). At the workshops, ELPC repeatedly heard market participants discuss the administrative burden, additional time, and additional costs involved in serving many small customers (i.e. residential *and* small commercial) vs. a few large customers as a major issue facing community solar and discuss various solutions to addressing this issue, including an adder or a minimum requirement. To the extent that industry participants commented on this issue using the term "residential" rather than "small customer,", ELPC believes this was due to the Agency framing of the issue both in its slide deck and its request for comments as being about "residential vs. commercial" subscribers, which sometimes led commenters to adopt the term "residential" when talking about small customers in that context.

  Additionally, the market reality that serving many, small customers costs more and takes longer than serving a few, large customers is well-documented and has led many other states to address this issue in the context of subscription size rather than subscriber type, including MA, NY, MD, and OR. Of those markets, two, MA and NY adopt 25 kW as their cutoff for the definition of small subscribers. ELPC suggests that the IPA do the same.

- **Refine discussion around what constitutes "robust participation opportunities."** The Agency should discuss what constitutes a participation opportunity. Specifically, ELPC does not believe that the ability of a market participant to theoretically develop a community solar project that serves residential and small commercial projects constitutes an actual opportunity for a small customer to participate, if no or few solar developers attempt to market to these small subscribers. In fact, ELPC believes that a common interpretation of the fact that the Minnesota program referenced by the IPA in section 7.5.1 serves only 89% commercial subscribers has at least as much if not more to the challenges developers that wanted to serve small subscribers faced trying to compete with developers that wanted to serve large customers rather than a lack of interest from small customers. In addition to the cost differential, ELPC understands that commercial developers were able quickly fill entire community solar projects before the program opened, leading to a rush on that program that left little room for projects with small subscribers that took longer to fill. In short, ELPC believes an outcome similar to that seen in Minnesota would be a prime example of a lack of opportunity for small customer participation and urges the IPA to acknowledge that the opportunity for small customers to participate cannot exist if the solar industry is not given adequate compensation and space within the program to try and serve these customers.

- **ELPC is concerned that an "adder-only" approach may be either ineffective or inefficient at spurring robust participation opportunities; nonetheless if that is the approach the IPA chooses, it must ensure that the adder value is high enough.** ELPC has heard from numerous market participants that the adder value proposed for residential subscribers is likely too low to compensate for the added administrative costs of serving many small subscribers. Not being a community solar provider, ELPC does not have a better estimate of the costs involved in serving small customers, however ELPC urges the IPA to further investigate these costs over the 21-day review period.

- **In order to better measure whether or not the Community Solar Program is actually ensuring robust participation opportunities for small customers, the Agency should define a goal for small customer participation, track actual levels of small customer participation, and report on progress toward that goal in Plan updates.** ELPC suggests that an appropriate initial goal would be roughly commensurate to the relative electricity load of small customers in Illinois (i.e. customers for whom a total subscription smaller than 25 kW would be appropriate). ELPC is not exactly sure what this percentage is, but urges the IPA to discuss this in its other conversations with Illinois utilities that have data on this topic.

Given these points, ELPC recommends the following changes to Sections 6.5.2 and 7.5.1 of the draft plan:

Section 6.5.2, p. 101-1: To ensure that the benefits of solar energy are widely shared by Illinois residents, the Adjustable Block Program will offer an additional incentive for community solar projects with a higher level of ~~residential~~ small subscribers, defined as those with subscriptions of 25 kW or less. To account for additional costs related to ~~residential~~ small subscribers, the following schedule of adders will be available to community solar projects that have minimum levels of ~~residential~~ small subscribers. For more discussion of issues related to ~~residential~~ small subscribers, see Section 7.6.2.

Table 6-4: Community Solar Adders

Adder	$/REC
Less than 50% ~~residential~~ small customer energy demand	No Adder
50% or greater ~~residential~~ small customer energy demand	$7.89
75% or greater ~~residential~~ small customer energy demand	$11.83

The ~~residential~~ small customer adders will be determined on the percentage of the energy output of the project subscribed to by ~~residential~~ small subscribers, and not the number of subscribers. As described in more detail in Sections 6.15.3 and 6.17, a community solar project will have to demonstrate a level of subscribers at the time of energization to initially receive an adder, and will have to maintain the ~~residential~~ small customer subscription levels or face having to pay penalties to remove the added value of the adders if the level is not maintained.

Section 7.6.2, p. 130-131: *Title:* ~~Residential~~ Small Customer Participation

The Act requires that the Agency propose terms and conditions that "ensure robust participation opportunities for residential and small commercial customers and those who cannot install renewable energy on their own properties."[311] In the responses to the Request for Comments issued by the Agency after its May workshops, there were strong disagreements expressed about how this provision should be interpreted. Some parties argued that it meant that all projects must include some level of residential or small customer participation, while others argued that the appropriate adders or other incentives would lead to robust residential and small commercial participation and that there should be no requirement.

While the Agency appreciates the arguments made by those who would wish to require residential and small commercial participation in all projects, the Agency declines to adopt that proposal. ~~First, t~~The above-quoted language of the Act refers to "robust participation **opportunities**"[312] for small customers, and does not mandate robust participation. Nonetheless, the Agency recognizes that for small customers, the opportunity to participate is only available if community solar developers are appropriately incentivized and given space within the program to try and serve this market segment. For the purposes of measuring and tracking small customer participation in community solar, the Agency sets a preliminary goal of XX%[3] and will report on progress toward that goal in Plan

[3] ELPC recommend that exact goal be related to the load of small customers, which should be investigated through conversations with the utilities.

updates. ~~Second, the same passage of the Act also refers to "small commercial customers." While small commercial customers were little discussed in comments or at the workshop, the Agency considers that it would be infeasible to mandate minimum levels of residential customers only without also considering small commercial subscribers.~~

Instead, as described in Section 6.5, the use of Adders in the Adjustable Block Program recognizes the value of ~~residential~~ small customer subscriptions, and the Agency expects that this will be a sufficient mechanism to ensure robust participation opportunities for the residential and small commercial sector. The Agency will review this determination as part of the Plan Update conducted in 2019 and may revise this determination if needed.

The level of interest in community renewable generation is still unknown, and it is possible that the interest and uptake of subscriptions may be stronger from large commercial customers. Experience to date from Minnesota has shown that 89% of community solar garden sales have been to commercial customers (although state-specific program design parameters may also be a driver of the residential versus commercial interest or more specifically, developer interest in trying and ability to serve residential customers). Nationally, corporate customers have emerged as major buyers of renewable energy in order to meet sustainability and financial goals. Illinois is home to many corporations that have made sustainability commitments, which may constitute a significant market for community renewable generation.

If it turns out that the residential and small commercial interest in community renewable generation is limited, requiring ~~residential~~ this participation could impede the successful development of the ~~commercial~~ community renewable generation market.

2. **Rather than not hold the Second Subsequent Forward Procurement (for wind resources) in the event the Agency's projected quantity of solar REC contracts is lacking, the Agency should expand the Second Subsequent Forward Procurement to include a solar REC procurement.** Conducting the Second Subsequent Forward Procurement (for wind resources) in 2019 is an eminently prudent decision as the IPA will need additional RECs to meet its long-term percentage-based goals (Plan at Section 5.8, p. 82) and will eventually need additional wind RECs for the new renewables requirement. Furthermore an earlier wind REC procurement will maximize developers' abilities to access federal tax credits, thus minimizing the quantity of ratepayer dollars used over the long-term. Therefore, if the IPA's projected quantity of photovoltaic RECs is too low to warrant a wind REC procurement, the IPA should conduct an additional photovoltaic REC procurement as part of the Second Subsequent Forward Procurement in order to allow the Second Subsequent Forward Procurement to go forward with a minimum target of one million RECs. To implement this recommendation, ELPC suggests the following changes to Plan language:

- **Table 5.1, Row 5, p. 78:**

5.8.2	Second Subsequent Forward[~~216~~]	Wind and potentially photovoltaic (utility-scale)	New	Fall 2019	15 years	2020-2021 or later	Wind - 1 million minimum[217] Photovoltaic - TBD

- **Footnote 216, p. 78:** ~~Contingent upon whether sufficient photovoltaics are projected to be procured.~~

- **Section 5.8.3, p. 83-84:**

5.8.2	Second Subsequent Forward[~~216~~]	Wind and potentially photovoltaic (utility-scale)	New	Fall 2019	15 years	2020-2021 or later	Wind - 1 million minimum[217] Photovoltaic - TBD

~~If the combination of the RECs procured through the various procurements and programs, and the available budgets, are sufficient to allow for an additional Subsequent Forward Procurement, the Agency proposes to conduct a Second Subsequent Forward Procurement.~~ This procurement would be conducted in the fall of 2019 and will seek to procure RECs from new wind projects. It would also follow the model described in Section 5.7.1. The final target for this Second Subsequent Forward Procurement could be adjusted up from 1 million RECs if the projected quantity of RECs from new photovoltaic projects is sufficient to maintain the new wind target within 200,000 RECs per year of the new photovoltaic targets. The Agency will review the results of the Adjustable Block Program and the Photovoltaic Forward Procurement to make this determination.

This Second Subsequent Forward Procurement from new wind projects ~~would~~ can only occur if at least 2.8 million new photovoltaic RECs are projected to be procured by the end of the 2020-2021 delivery year. This limitation exists because each of the Initial Forward Procurement, Subsequent Forward Procurement, and Second Subsequent Forward Procurement must be for at least 1 million RECs from new wind projects, under Sections 1-75(c)(1)(G)(i) and (iii) of the Act. For a further example, if the projection were 3.2 million new photovoltaic RECs (e.g., 1 million from the Adjustable Block Program, 1 million from the Initial Forward Procurement, and 1.2 million from the Photovoltaic Forward Procurement) by the end of 2020-2021, then the Second Subsequent Forward Procurement volume could be increased from 1 million RECs to 1.4 million RECs to stay at the 200,000 REC matching requirement.

In the event that less than 2.8 million new photovoltaic RECs are projected to be procured by the end of the 2020-2021 delivery year, the Agency will hold a photovoltaic REC procurement as part of the Second Subsequent Forward Procurement to ensure that the projected volume of RECs from new photovoltaic projects is adequate to allow the wind procurement to go forward. In the event that this photovoltaic procurement is held, the Agency will make a determination as to the quantity of the photovoltaic REC procurement based on the number of photovoltaic RECs needed to bring the 2020-2021 delivery year photovoltaic

REC projection up to 2.8 million, available budgets, and experience from previous procurements regarding what size procurements attract adequate competition to procure RECs at desirable prices.

3. **Correct interpretation and update intention regarding the ability to execute the Illinois Solar for All Program as an adder on top of the Adjustable Block Program in cases where the utility is the counterparty.** The Plan describes the Agency's intent to fund and administer contracts for Illinois Solar For All projects through separate contracts at premium prices rather than an "incentive premium" on top of Adjustable Block Program REC contract prices. (Plan at Section 2.6.1, p. 35) According to the Plan, this approach is "most appropriate" because "parsing REC delivery contracts into two components—the base payment-for-a-REC delivery contract and a separate incentive adder, potentially paid by a different counterparty—appears inconsistent with a program design built around "contracts" rather than rebates or grants." (Plan at Section 2.6.1, p. 35)

   ELPC agrees with the Agency that the requirement for two different contracts with two different counterparties would present logistical and potentially legal challenges. However, the Plan acknowledges that the Illinois Solar For All program has more than one funding source. In some cases, the Illinois Solar For All projects will be funded by the RERF and in others they will be funded through a portion of the funds collected by the utilities under their Section 16-108(k) RPS tariffs. (Plan at Section 2.6.1, p. 35) The counterparty for contracts entered into using RERF funds is the Agency, while the counterparty for contracts using utility funds will be the applicable utility. (Plan at Section 2.6.1, p. 37) Thus, there will be many situations in which the Agency's concerns about "parsing" contracts between two different counterparties will not apply. In those situations (i.e. when the utility serves as the counterparty for an Illinois Solar For All contract), there appears to be no legal or practical prohibition on executing this funding as an adder on top of the ABP. Doing so would both allow a limited funding stream for low-income solar projects to go further and, in creating a larger pool of funds that is more fully integrated with the rest of the DG solar market REC funding in Illinois, could attract and facilitate greater interest from the solar developers that serve the non-low-income Illinois solar market. This would ultimately further the legislative goal of facilitating the development of "a long-term, low-income solar marketplace throughout this State." (20 ILCS 3855/1-56(b)(2))

   This "layering" approach would create some additional complexity for tracking progress towards the "new photovoltaic" targets in Section 1-75(c)(1)(C) of the RPS, but ELPC believes these complexities are manageable and are worth the trade-off in terms of the significant policy and program benefits described above. Specifically, Section 1-75(c)(1)(C) states that "Photovoltaic projects developed under Section 1-56 of this Act"—i.e. the RERF—"shall not apply towards the new photovoltaic project requirements in this subparagraph (C)." ELPC believes that the phrase "developed under Section 1-56" means projects that receive RERF funding under Section 1-56. Further, even should the IPA disagree with ELPC's interpretation of this prohibition being limited to Section 1-56 funding, there is no requirement that all of the RECs from an Adjustable

Block Program project count toward the new project requirements. Therefore, it is entirely feasible for only a portion of RECs produced by the project (presumably equivalent to the portion funded by the base ABP incentive) to count toward the new project requirement.

Additionally, while ELPC understands that the prospect of simultaneously running part of the Solar for All Program as an adder to the ABP and part as a full incentive may seem complicated, there is nothing prohibiting the Agency from spending down the RERF first, before utilizing funding available from the utilities. In fact, doing so would be in line with some comments during the May workshops that it may be prudent to spend the RERF down quickly given that that funding is subject to legislative sweeps. Furthermore, spending the RERF down first would not imply the same cliff in the Solar for All Program under a structure where the (smaller quantity of) utility funding could be used as an adder rather than to fund the entire incentive. Finally, the ability of the IPA to roll over funds over the first few years of program implementation under Section 16-108(k) of the Public Utilities Act means that the utility funds could still be accessed in later years. ELPC is not formally suggesting this approach to Solar for All funding as a comment with altered Plan language below, but rather highlighting it as an option to help facilitate ELPC's recommended approach.

ELPC suggests the following specific additions and changes to the proposed Plan to implement this suggestion:

- **Section 2.4.2, p. 27:** Projects developed under Section 1-56 of the IPA Act (i.e., paid for using the Renewable Energy Resources Fund via the supplemental photovoltaic and Illinois Solar for All projects) are not eligible to meet quantitative "new photovoltaic project" targets.

- **Section 2.6.1, p. 35-7:** Structurally, the law ~~appears to~~ permits two models for how those incentives operate—either through contracts for RECs at a premium price reflecting the additional incentive necessary to ensure low income participation, or through an incentive premium applicable to Section 1-75(c)(1)(K) Adjustable Block Program REC contract prices (with the Illinois Solar for All Program simply entailing the administration of additional incentives). As discussed further in Chapter 8, the IPA believes that the ~~former approach is~~ most appropriate approach varies depending on the funding source and related counterparty; ultimately, the program is administered through awarding contracts for consideration, and that consideration is the delivery of a REC used to satisfy a compliance obligation under Section 1-75(c)(1) of the Act. Ultimately, parsing REC delivery contracts into two components—the base payment-for-a-REC delivery contract and a separate incentive adder, potentially paid by a different counterparty—appears inconsistent with a program design built around "contracts" rather than rebates or grants. Therefore the Agency proposes to utilize the former approach for contracts where the Agency is the counterparty and the latter approach for contracts where the utility is the counterparty.

- **Section 6.5, p. 100:** The ~~following set of~~ Adders are intended to adjust the base REC price to meet specific additional purposes. These include adjusting for

system size, adjusting for the additional costs of community solar, providing incentives to meet the objectives of the Solar for All Program (outlined in Chapter 8), and potentially accounting for the changes to net metering, smart inverter rebates and federal tax credits."

- **Section 8.2.1, p. 137:** As described in this Chapter, the Agency will administer the Illinois Solar for All Program both in conjunction with and separately from the Adjustable Block Program, but building on the program design of the Adjustable Block Program, with additional considerations specific to Illinois Solar for All. These include a different set of incentives, Illinois Solar for All specific contracts or additional contract provisions, and additional considerations to ensure community involvement, consumer protections, and eligibility.

- **Section 8.4.5, p. 144:** Contracts will be either with the Agency or a utility, depending on the funding source,[329] and will include the assignment of RECs from each system for 15 years. RECs from these contracts will be applied to the annual RPS goals of the utility to which the project is interconnected, but will ~~not~~ only count toward each utility's new photovoltaic targets in cases where the utility is the counterparty.[330] ~~Projects that receive a contract through Illinois Solar for All will not be eligible to also receive a contract through the Adjustable Block Program.~~[331]

  The Act is silent on how to allocate RECs from projects located in the service territories of municipal utilities, rural electric cooperatives, or Mt. Carmel Public Utility. The Agency suggests that RECs from those projects procured through contracts with the Agency ~~would not be applied the utility RPS goals~~ be applied proportionately to load to each of the utilities' RPS goals, while any RECs procured through contracts with a utility would be applied to the RPS goals of that utility.

- **Footnote 331, p 144:** Section 1-56(b)(3) requires that for Illinois Solar for All contracts, "[t]he payment shall be in exchange for an assignment of all renewable energy credits generated by the system during the first 15 years of operation." Sections 1-75(c)(1)(L)(ii) and (iii) both contain provisions related to the various components of the Adjustable Block Program that, "[t]he electric utility shall receive and retire all renewable energy credits generated by the project for the first 15 years of operation." These two provisions from Section 1-56(b)(3) and Section 1- 75(c)(1)(L) are mutually exclusive in cases where there are different counterparties for the Solar for All and Adjustable Block Programs as only one REC can be produced, transferred, and retired for each MWh of generation, however they create no such problems when the counterparty is the same.

- **Section 8.6, p. 146:** *After the paragraph ending*: "…allowing for the prices offered through Illinois Solar for All to track overall market conditions while continuing to be offered at a higher level than for the Adjustable Block Program," *add the following paragraph:*

  For those contracts that will involve an Illinois Solar for All adder on top of an Adjustable Block Program base (i.e. contacts in which the utilities are the counterparty), the value of the adder will be calculated by subtracting the

published Illinois Solar for All incentive value from the Adjustable Block incentive available for that project type at that point in time.

4. **The Agency Should Clarify Its Interpretation of Section 16-108(k) Rollover Funding Provisions.**

Section 16-108(k) of the PUA contains a very important change to the utilities' collection and reconciliation of RPS funding. In contrast to the original RPS, the revised statute directs the utilities to collect and retain tariffed RPS funds in a separate interest bearing account over a four-year period beginning June 1, 2017 and ending May 31, 2021. The law directs utilities to use these "rollover" funds for purchases of RECs pursuant to an approved long-term renewable resources procurement plan "regardless of the delivery year in which the funds were collected." Importantly, the law provides for a "single review, reconciliation, and true-up associated with renewable energy resources' collections and costs" for the entire 4-year period ending August 31, 2021.

> Notwithstanding anything to the contrary, the Commission shall not conduct an annual review, reconciliation, and true-up associated with renewable energy resources' collections and costs for the delivery years commencing June 1, 2017, June 1, 2018, June 1, 2019, and June 1, 2020, and shall instead conduct a single review, reconciliation, and true-up associated with renewable energy resources' collections and costs for the 4-year period beginning June 1, 2017 and ending May 31, 2021, provided that the review, reconciliation, and true-up shall not be initiated until after August 31, 2021.

(220 ILCS 5/16-108(k)). This four-year rollover budget will provide the IPA will significant flexibility to scale-up the new RPS programs over a longer-term horizon without feeling pressure to spend every dollar collected in the early years of the program on renewable resources in the same delivery year. In order to facilitate long-term planning and avoid possible curtailments, the Agency should clarify that the "costs" included in the August 2021 reconciliation will include funds obligated through contract under long-term commitments, even if the funds have not yet been dispersed.

Section 16-108(k) also contains language intended to help support the Illinois Solar For All Program in a situation where there is a "funding shortfall" from the RERF. (Plan at Section 8.4.3, p. 142) If the amount of funds collected by a utility during a delivery year exceeds the "costs incurred during that delivery year," then the Act authorizes the Agency to use its discretion to use some of that "excess amount" to fund the Illinois Solar For All programs under subsection (b) of Section 1-56 of the IPA Act. The statute includes a convoluted and somewhat ambiguous formula for determining whether there is, in fact, a "funding shortfall." As the Draft Plan notes, the statute makes reference to "appropriations to" the RERF, despite the fact that the General Assembly does not appropriate funds *to* the RERF and an appropriation "may, or may not, correspond to the actual Fund balance or match actual expenditures made in that fiscal year." (Plan at Section 8.4.3, p.142).

Despite the confusing language, there are two important things to note about this section of the statute. First, funds may only be transferred where the funds collected exceed the "costs incurred during that delivery year." For reasons similar to those discussed above, the Agency should interpret "costs incurred" to include costs that are committed through long-term contracts but not yet paid during the delivery year in question. Otherwise, the Agency will be faced with uncertainty about the future availability of funds to satisfy long-term obligations made in the early years of the program. It is unlikely the legislature would have intended to subject the Agency's long-term planning process to such uncertainty.

Second, the language provides the IPA with discretion to transfer utility funds to the Section 1-56 programs where there is a "funding shortfall," but it does not *require* it

> If the amount of funds collected during the delivery year commencing June 1, 2017, exceeds the costs incurred during that delivery year, *then up to half of this excess amount*, as calculated on June 1, 2018, *may be used* to fund the programs under subsection (b) of Section 1-56 of the Illinois Power Agency Act …

(220 ILCS 5/16-108(k)) (emphasis added). By providing this discretion, the General Assembly clearly intended the IPA to exercise its expert judgment to balance all of the competing and complementary goals of the RPS when making decisions about transfers between programs pursuant to this section.

Despite the somewhat ambiguous language for determining a "funding shortfall," it is likely that the primary intent of this section is to safeguard and support the Illinois Solar For All program in situations where RERF funds are borrowed or swept and therefore unavailable for their intended use. The IPA should clarify its intent to exercise its discretion under this section in light of this underlying statutory intent. If the RERF is swept, then the IPA should act decisively to protect the programs. However, if the RERF is intact and the Solar For All programs are adequately funded, then the IPA should not transfer utility funds pursuant to Section 16-108(k) when it would jeopardize the IPA's ability to meet other RPS goals.

With this in mind, ELPC suggests the following changes to Plan language:

- **Section 2.3.4, p. 24:** For a limited period, P.A. 99-0906's changes to Section 16-108(k) of the PUA also allow for budget amounts to be rolled over to future years. Those changes provide that rather than conducting annual reconciliations of collections and costs, the Commission "shall instead conduct a single review, reconciliation, and true-up associated with renewable energy resources' collections and costs for the 4-year period beginning June 1, 2017 and ending May 31, 2021, provided that the review, reconciliation, and true-up shall not be initiated until after August 31, 2021." Over that four-year period prior to the eventual reconciliation, "the utility shall be permitted to collect and retain funds

under this subsection (k) and to purchase renewable energy resources under an approved long-term renewable resources procurement plan using those funds regardless of the delivery year in which the funds were collected during the 4-year period." For purposes of the August 2021 reconciliation and subsequent annual reconciliations under subsection (k), the IPA will consider funds obligated through contract under long-term commitments as "costs" even if the funds have not yet been dispersed.

- **Section 2.6.1, p. 36:** Third, Section 16-108(k) of the PUA contains the following provision:

> *If the amount of funds collected during the delivery year commencing June 1, 2017, exceeds the costs incurred during that delivery year, then up to half of this excess amount, as calculated on June 1, 2018, may be used to fund the programs under subsection (b) of Section 1-56 of the Illinois Power Agency Act in the same proportion the programs are funded under that subsection (b). However, any amount identified under this subsection (k) to fund programs under subsection (b) of Section 1-56 of the Illinois Power Agency Act shall be reduced if it exceeds the funding shortfall. For purposes of this Section, "funding shortfall" means the difference between $200,000,000 and the amount appropriated by the General Assembly to the Illinois Power Agency Renewable Energy Resources Fund during the period that commences on the effective date of this amendatory act of the 99th General Assembly and ends on August 1, 2018.*

Similar provisions exist in Section 16-108(k) for each of the delivery years commencing June 1, 2018 and June 1, 2019., ~~, and the meaning~~ The language in this section is somewhat unclear: it refers to a "funding shortfall" from the RERF, however the formula to calculate this funding shortfall is convoluted and somewhat ambiguous. The statute also makes reference to "appropriations to" the RERF, despite the fact that the General Assembly does not appropriate funds to the RERF and an appropriation may, or may not, correspond to the actual Fund balance or match actual expenditures made in that fiscal year. One thing that is clear is that the statute extends the Agency discretion with regard to the use of these funds as the funds "*may"* be used. By providing this discretion, the General Assembly clearly intended the IPA to exercise its expert judgment to balance all of the competing and complementary goals of the RPS when making decisions about transfers between programs pursuant to this section.

Despite the somewhat ambiguous language for determining a "funding shortfall," it is likely that the primary intent of this section is to safeguard and support the Illinois Solar For All program in situations where RERF funds are borrowed or swept and therefore unavailable for their intended use. The IPA intends to exercise its discretion under this section in light of this underlying statutory intent. If the RERF is swept, then the IPA will act decisively to protect the programs. However, if the RERF is intact and the

Solar For All programs are adequately funded, then the IPA will not transfer utility funds pursuant to Section 16-108(k) when it would jeopardize the IPA's ability to meet other RPS goals. ~~there is no single "amount appropriated by the General Assembly to the Illinois Power Agency Renewable Energy Resources Fund" for the 14 months referenced in the paragraph above; instead, there are three separate fiscal year appropriations109 covered by this period, one of which is currently unknown and will not be known for some time. The logic behind the provision is likewise unclear, as the Agency's appropriation is merely its legislatively-granted authority to spend and does not reflect actual expenditures made—and thus, the "amount appropriated" is a slightly awkward measuring tool for a "funding shortfall."~~

Should the IPA exercise its discretion to allocate funding for Illinois Solar for All ~~be available~~[110] under this mechanism (while unstated in the law, presumably for overcollections in the 2017-2018 delivery year, although the Agency would reserve the right to develop a revised procurement plan should overcollections occur in 2018-2019 or 2019-2020), then "the Agency shall submit a procurement plan to the Commission no later than September 1, 2018, that proposes how the Agency will procure programs on behalf of the applicable utility."[111] The Commission would have until November 1, 2018 to approve any such Plan.

- **Section 8.4.3, p. 142-143:** Section 16-108(k) of the Public Utilities Act provides the IPA the ability to correct for a situation in which there is a ~~total amount of funds appropriated by the General Assembly from325 the Renewable Energy Resources Fund during the period between June 1, 2017 and August 1, 2018 is less than $200,000,000, creating a~~ "funding shortfall~~.~~," with respect to the RERF, which the IPA takes to mean the RERF has been swept (as discussed in greater detail in Section 2.6.1). This period encompasses part or all of three state Fiscal Years (running from July 1 of a given year to June 30 of the following year). If there is a funding shortfall, additional funding from the utilities could be available, as discussed below, to support Illinois Solar for All as part of a supplemental plan developed by the Agency.

  ~~However, as part of the time period in question includes the first month of Fiscal Year 2019, the amount of the funding shortfall, if any, will not be known until after the Fiscal Year 2019 budget is adopted, which is expected to be during the late spring or summer of 2018. If this provision is interpreted to be based on the amounts appropriated for the whole of all three Fiscal Years covered (rather than a prorated amount of the appropriations for the first and last years, Fiscal Year 2017 and Fiscal Year 2019), then for Fiscal Year 2017 (which ended June 30, 2017), the appropriation that was made for the Renewable Energy Resources Fund was $50 million, and for Fiscal Year 2018, also $50 million—totaling $100 million that has already been appropriated by the General Assembly for the relevant period.326 The existence of a funding shortfall will depend upon the size of the appropriation the Agency receives from the RERF for Fiscal Year 2019, and will only occur if the appropriation is less than $100~~

~~million. The Agency typically submits its appropriations requests to the General Assembly in February of each year (in this case 2018) and its request is taken up along with the other components of the state budget during the Spring legislative session.~~[327]

~~The Agency notes that an appropriation is merely authority to spend funds up to the appropriated amount for the purposes contained in an applicable Fiscal Year's appropriation bill. It may, or may not, correspond to the actual Fund balance or match actual expenditures made in that fiscal year.~~

In addition, this funding is only available if the funds collected from ratepayers by the utilities through their RPS riders exceed their expenditure to fund their purchases of RECs under the RPS during each of the 2017-2018, 2018-2019, and 2019-2020 delivery years, and half of each year's difference, if any, would be available to offset the shortfall. The amount collected and expended by the utilities will ~~also~~ not be known until a later date, although based upon the scope of procurements proposed for the 2017-2018 and 2018-2019 delivery years, the Agency would expect that the amount collected from customers ~~will significantly~~ could easily exceed actual ~~expenditures~~ costs by the utilities on Renewable Energy Credits. The Agency will ask each utility to provide an accounting of RPS collections and expenditures following the end of each delivery year.

If there is a funding shortfall and there are utility RPS rider overcollections during the 2017-2018, 2018-2019, and/or 2019-2020 delivery years that, in aggregate, do not exceed the funding shortfall, then Section 1-56(b)(7) provides that,

> *If additional funding for the programs described in this subsection (b) is available under subsection (k) of Section 16-108 of the Public Utilities Act, then the Agency shall submit a procurement plan to the Commission no later than September 1, 2018, that proposes how the Agency will procure programs on behalf of the applicable utility. After notice and hearing, the Commission shall approve, or approve with modification, the plan no later than November 1, 2018.*

For the purposes of this Plan, it is not yet known if this funding will, or will not, be available OR if the RERF will be swept. If these funds become available following the 2017-2018 delivery year and the RERF is swept, the Agency will develop and submit a Plan to the Commission by September 1, 2018 to reflect how those funds will be used beginning in the 2018-2019 delivery year.

5. **The Agency should provide clarity on its interpretation of the net metering caps to enable better planning for the Adjustable Block Program and provide greater certainty to market participants.** The draft Plan describes IPA's intent to monitor and adjust ABP pricing in response to changes in underlying market fundamentals, including

the transition from retail net metering to a rebate based on the locational value of distributed generation. (Plan at Sections 6.8.1 & 6.8.2, p. 105 & 106) The PUA directs the ICC to "open an investigation" to begin designing a new locational-value rebate for distributed generation customers "[w]hen the total generating capacity of the electricity provider's net metering customers is equal to 3%." (220 ILCS 5/16-107.6(e)) When net metering capacity reaches 5%, the program will revert to energy-only netting and the law directs utilities to begin offering the new locational-value rebate. *See* 220 ILCS 5/16-107.5(j); 220 ILCS 5/16-107.6(e). The law states:

> (j) An electricity provider shall provide net metering to eligible customers *until the load of its net metering customers equals 5% of the total peak demand supplied by that electricity provider during the previous year.* After such time as the load of the electricity provider's net metering customers equals 5% of the total peak demand supplied by that electricity provider during the previous year, eligible customers that begin taking net metering shall only be eligible for netting of energy. [emphasis added]

(220 ILCS 5/16-107.5(j))

The Plan indicates that the Agency does not expect the end of retail net metering to happen until sometime in its next Plan revision cycle (i.e., not before the Fall of 2019), but the precise timing will depend, in large part, on the interpretation of the statutory 5% trigger. There is still a great deal of uncertainty about the calculation of the ratio of "net metering load" / "total peak demand" that could result in a transition earlier, or later, in the IPA's planning process.

There are at least two major unresolved questions that pertain to net metering service provided by electric utilities:

- **How should the IPA and ICC define the numerator?** Specifically, should the "load of its net metering customers" as used in Section 16-107.6(e) refer only to the load of retail net metering customers as that term is commonly understood (i.e. those customers that receive bill credits based on all kWh-based charges in their bill)? Or, instead, should "net metering customers" be interpreted to *also* include community solar subscribers who receive energy-only bill credits?

- **How should the IPA and ICC define the denominator?** Specifically, should "total peak demand" as used in Section 16-107.6(e) include all of the utility's delivery customers, or, instead, should it be limited to only the utility's customers that receive *bundled supply* service from the utility?

It is ELPC's understanding that ComEd currently intends to interpret the numerator broadly and the denominator narrowly. In other words, it is our belief that ComEd intends to include community solar subscribers as part of the load it will use when deciding when to end its net metering program. Similarly, we believe ComEd intends to limit the "total

peak load" used in the denominator of the program cap ratio to include only those customers taking default supply from the utility. ComEd's interpretation would result in a relatively small net metering program. For example, ComEd reported a Peak Demand Supplied By ComEd of 6,970 MW in 2016.[4] This would translate to a **5% NEM program cap of only 349 MW.** Ameren reported a Total System Peak Demand of 5,894 MW in 2016, for a total 5% program cap of 295 MW.[5]

In addition to creating a relatively small overall program size, ComEd's interpretation of Section 16-107.6(e) would create a moving 5% target that could change dramatically depending on the pace and direction of retail switching. For example, in 2014, ComEd reported a Peak Demand Supplied by ComEd of only 4,434 MW, which translates to a **5% NEM program cap of only 222**—in other words the net metering program cap using ComEd's interpretation of the statute would have increased by nearly 60% between 2014 (222 MW) to 2016 (349 MW). It is not clear how the retail electricity market will develop in the future. Just as in the prior incarnation of the RPS program, ComEd's interpretation of the net metering cap would subject the IPA's planning process to significant uncertainty and unpredictability, which could threaten market stability and the success of the ABP.

ComEd's reading of the 5% net metering cap would also complicate the ICC's planning process to develop a locational value rebate methodology. The term "electricity provider" as used in the net metering statute refers to both utilities and ARES. 220 ILCS 5/16-107.5(b)(iii). Technically, then, one could argue that the ICC should plan to initiate its locational value investigation as soon as any one ARES happens to reach a 3% net metering threshold.

> (e) When the total generating capacity *of the electricity provider's net metering customers* is equal to 3%, the Commission shall open an investigation into an annual process and formula for calculating the value of rebates …." [emphasis added]

(220 ILCS 5/16-107.6(e)) But why should the Commission's investigation and eventual approval of a locational value rebate be linked to net metering progress at any one supplier rather than progress across a broader utility or statewide footprint? It would make little sense for the Commission to ramp up an investigation if a small ARES serving only a few customers happens to hit a 3% net metering threshold. What if that company loses a few net metering customers and subsequently falls back below the 3% threshold? Should the ICC then suspend its investigation and wait for another electricity provider to hit 3%? It seems unlikely that the legislature intended link such an important shift in Illinois electricity policy to the number of net metering customers at any one electricity provider. Instead, it makes much more sense and is more consistent with the overall intent of the statute to look to overall net metering penetration within the service territory of the major distribution utilities to determine when to transition to a locational

[4] ComEd 2017 Annual Net Metering Report to the ICC.
[5] Ameren 2017 Annual Net Metering Report to the ICC.

value rebate. That would provide much more certainty and stability for the regulators and the market.

There are several other logistical and practical difficulties related to ComEd's apparent interpretation of the 5% program cap that would appear to conflict with legislative intent. A net metering program cap that could fall as low as roughly 200 MW (as it did in 2014) would not give the ICC very much time to establish a locational value methodology in light of the significant DG development expected under the IPA's adjustable block program. Here's what the statute requires the ICC to do:

> The investigation shall include diverse sets of stakeholders, calculations for valuing distributed energy resource benefits to the grid based on best practices, and assessments of present and future technological capabilities of distributed energy resources. The value of such rebates shall reflect the value of the distributed generation to the distribution system at the location at which it is interconnected, taking into account the geographic, time-based, and performance-based benefits, as well as technological capabilities and present and future grid needs.

(220 ILCS 5/16-107.6(e)) It will not be easy for the ICC to research, develop, propose, and approve this locational value tariff. No states have yet figured this out, despite several years of effort in California, New York, Hawaii, and elsewhere. A small 200-300 MW net metering program cap could be consumed rapidly, especially if pent-up demand leads to a rush on the DG and community solar programs. This begs the question of how the IPA should handle the uncertainty and market disruption that could occur if a utility hits its 5% net metering cap before the ICC establishes a locational value tariff. Do DG customers simply lose access to retail net metering with nothing to replace it? (This is a particular concern for residential customers, who cannot access the interim $250/kW rebate that is available to "non-residential customers" under Section 16-107.6(c)(1).) It is not even clear whether customers in MidAmerican's service territory will ever be able to take advantage of a DG rebate, since that section of the law applies only to electric utilities that serve more than 200,000 customers. (220 ILCS 5/16-107.6(b))

In light of all of the scenarios described above, it is clear ComEd's position on the net metering cap would create serious logistical difficulties for the IPA's administration of the ABP and, potentially, very damaging market disruption and uncertainty for the development of the DG market in Illinois. It would be more consistent with the overall legislative intent of the RPS to calculate net metering program caps using the electric utility's load for delivery services supplied to all retail customers, not just those customers taking default utility supply service. One of the fundamental improvements in Public Act 99-0906 was the elimination of the RPS budget and target uncertainty caused by retail switching. It is unlikely that the legislature intended to substitute one source of planning uncertainty for another when it created the DG rebate.

It also makes little sense to include community solar customers when calculating net metering program caps. Community solar is a new program in Illinois, and yet the 5% net

metering program cap has existed since the EIMA passed in 2011. Squeezing the new community solar customers into the cap would effectively shrink the net metering program (potentially drastically) without any evidence that the legislature intended that result. Furthermore, there is no logical policy reason to count community solar against the net metering caps. Community solar customers receive energy-only netting. There is no credit allocated to the delivery services portion of the bill, and therefore no revenue impact to the utilities. It is unlikely that the legislature intended to significantly reduce the effective size of the net metering program in Illinois, potentially squeezing out retail net metering customers that rely on 1:1 kWh credits, when it established a new community solar program in Illinois.

Finally, there are no other states that implement net metering program caps based on a utility's default or standard offer service load. There are a total of 14 states that currently offer full retail choice, of which 13 also have net metering policies (Texas being the exception). An additional three states, California, Michigan, and Oregon offer more limited retail choice. Each of these three states also has a net metering policy. Of the total of 16 retail choice states with net metering policies, only 10 have, or used to have, aggregate caps on net metering, as follows:

- California: Uncapped now, but formerly 5% of the sum of aggregate customer peak loads of each utility.[6]
- Delaware: 5% of an electric utility's aggregated customer monthly peak demand for a calendar year.[7]
- Maine: 3% of a transmission and distribution utility's peak demand (onlu notification of PUC required).[8]
- Maryland: 1,500 MW statewide.[9]
- Massachusetts: 7% of a utility's peak load for private sector projects; 8% of a utility's peak load for public sector projects.[10]
- Michigan: 1% of an electric utility's or electric supplier's in-state peak load (Note: now transitioning to a new DG program)[11]
- New Hampshire: 100 MW, apportioned to distribution utilities based on their share of total 2010 statewide peak demand.[12]
- New Jersey: BPU discretionary cap of 2.9% of total in-state electricity sales.[13]
- Oregon: Minimum of 0.5% of a utility's historic single hour peak load (BPU may not cap net metering below this amount)[14]
- Rhode Island: Now uncapped for the lone IOU (National Grid) but formerly had a statewide cap of 3% of total statewide peak load.[15]

[6] CA Public Utilities Code § 2827(c)(1)
[7] 26 Del. C. § 1014(e)(7)
[8] CMR 65-407 Chapter 313 § 5
[9] Md. Public Utility Companies Code § 7-306(d)
[10] M.G.L. ch. 164, § 139(f)
[11] MCL § 460.1173.
[12] New Hampshire Statutes § 362-A:9 (I)
[13] N.J. Stat. § 48:3-87(e)(1)
[14] Oregon Rev. Stat. 757.300(6)
[15] Rhode Island. H.B. 7727 (2014).

All of the caps are either implemented on a statewide basis, or structured such that the cap refers to the distribution utility's full peak load. Michigan's law is somewhat ambiguous, but the calculation of the cap is made clear in utility tariffs, which refer to the cap as based on the "Company's" peak load.[16] The key point here is that none of these states have implemented NEM caps in a manner that limits net metering to default or standard offer service load.

For all of these reasons, ELPC respectfully urges the IPA to carefully review the relevant statutory language, including the larger purpose, structure, and intent of Act 99-0906's revisions to the Illinois RPS, and include in its Plan the Agency's interpretation of the net metering program caps that it will use to administer the pricing and future adjustments to the ABP. By providing this clarity, the IPA will allow the market to scale with more certainty and will provide stakeholders and the Commission with useful guidance for addressing these issues in other forums. Specifically, ELPC recommends the following changes to the IPA's draft Plan:

> **Section 6.8.1, p. 105:** Under Section 16-107.5(j) of the PUA, net energy metering is generally credited at a value that accounts for the value of energy and delivery until net metering accounts for 5% of the total peak demand supplied by that electricity provider during the previous year. ~~of each electricity provider's eligible customers.~~ At that time, net metering for any new installations will be for energy only. Although the statute is ambiguous, the Agency interprets the "total peak demand supplied by that electricity provider" used in Section 16-107.5(j) to refer to the peak demand of all of the utility's retail customers, including the customers that receive retail electric supply from ARES and for which the utility supplies only delivery services. This interpretation is consistent with the overall legislative intent of Act 99-0906 and would avoid several serious logistical and practical difficulties associated with administering the ABP. To the extent there is any ambiguity, the Agency also interprets Section 16-107.5(j) to refer only to the load of a utility's retail net metering customers and not subscriptions to community renewable generation projects.

6. **The IPA or Program Administrator should develop marketing guidance and consider an Illinois RPS "brand" to facilitate effective but appropriate green marketing claims around renewable development that help the state meet RPS requirements.** The draft LTRRPP requests comments on marketing claims related to renewable energy generated pursuant to the adjustable block program, in light of the fact that the Illinois RPS is based on the core requirement that participants sell the project's "environmental attributes" (in the form of RECs) from the project to a utility. (Plan at Section 7.6.3, p. 134). The IPA notes that it has no firm proposal on how best to resolve this issue, and hopes to have a more refined marketing proposal as part of its filed Plan.

   At the outset, ELPC appreciates the IPA's solicitation of feedback on this issue. It is important to provide clear marketing information to customers so that they understand the

[16] DTE Energy. Standard Contract Rider No. 16, Net Metering. Available at: http://www.michigan.gov/documents/mpsc/dtee1curd1throughend_579205_7.pdf

value proposition for themselves as well as how their participation in this program can benefit society at large by helping lead to more clean and renewable energy in Illinois. While existing guidance from the Federal Trade Commission ("FTC") and other sources is a helpful place to start, none of the existing sources of information are tailored to the specifics of the Illinois market and the Illinois RPS. As the IPA notes in its draft Plan, a strict interpretation of some of these existing guidance documents could begin to "border on the absurd" in light of the nuances of the Illinois market. (Plan at Section 7.6.3, p. 135) Thus, it is important for the Plan to address this issue directly and offer an Illinois-specific solution and guidance in order to avoid widespread confusion in the marketplace.

The Illinois RPS relies almost entirely on the sale and retirement of RECs to track compliance with RPS goals and targets. Traditionally, RECs have been the mechanism by which the renewable attributes, or "greenness," of electricity has been tracked and traded. The FTC and others have provided guidance on what claims related to renewable energy are permissible. FTC guidance applies broadly to marketing and commercial statements. (16 CFR § 260.1(c)). FTC guidance states that if an entity that generates renewable energy sells the corresponding RECs, the remaining electricity is "null" electricity, and no longer has any renewable attributes. The entity therefore no longer has a claim to owning or using renewable electricity. "If a marketer generates renewable electricity but sells renewable energy certificates for all of that electricity, it would be deceptive for the marketer to represent, directly or by implication, that it uses renewable energy." (16 CFR § 260.15). Perhaps counterintuitively, this means that even if a company has solar panels on its roof, it cannot make public claims that it is using solar power or renewable energy if it sells the RECs to another entity.

While this system works well to avoid double-counting of renewable attributes in the voluntary market, it is not a perfect fit for the compliance program created in Illinois by Public Act 99-0906. Because neither the developer nor the customer/subscriber retains the RECs, under the traditional regulatory system, the developer cannot state that it is selling renewable power, nor can the customer/subscriber state that it is buying or using renewable power—despite the fact that a significant amount of new renewable power is being added to the grid in Illinois. This could create a significant problem for marketing the program and encouraging developers and customers to participate.

Compounding the situation described above is the fact that many ARES are currently offering "green" or "renewable" products to Illinois customers that do not add any new renewable generation to the grid in Illinois. This is because the ARES are purchasing RECs from existing renewable energy projects, often located far from Illinois. ARES can call an electricity product "green" or "renewable" even if the RECs are old or from a facility that was rate-based or located on the other side of the country—in other words, from RECs that would not be eligible to be used toward Illinois' RPS, as they do not meet the legitimate public health, safety, and welfare goals established by the Illinois General Assembly. It would not be consistent with the spirit of the Illinois RPS and the strong legislative findings if these ARES marketers could make stronger "green" claims (due to their purchase of remote and/or ill-qualified RECs) than participants in the Illinois RPS that are actually leading to significant new wind and solar generation in Illinois.

ELPC suggests that the IPA and its program administrator should consider producing a guidance document explaining how the RPS operates and what happens to the RECs. This guidance document could also create a marketing "brand" or certification around the Adjustable Block and Illinois Solar for All programs. This would help consumers identify projects developed as part of the program as being part of a credible program that is sanctioned by the state and has real environmental value, while avoiding potentially problematic renewable energy claims that might conflict with traditional green marketing guidance. ELPC proposes that a brand framework be included in the IPA's Procurement Plan with flexibility for implementation, including the details of the branding material. The program administrator could also develop guidance through a stakeholder process on what types of environmentally-related claims are permissible. For example, it might be permissible for a developer of a community solar garden to tell a potential subscriber that he or she is "helping support local solar development" or "helping the state meet its RPS goals," even if the developer may not be able to state that the subscriber would be purchasing solar power.

Developers could be given access to the brand or certification once they are determined to be a qualified vendor for the adjustable block program. Developers would then benefit from the branding program because their projects would be certified as part of a credible, state program with environmental value and because they would receive guidance on what marketing claims are permissible. Participants would benefit from increased confidence in the program and a better understanding of the environmental benefits. Ideally, participants would understand that the Adjustable Block and Illinois Solar for All programs incentivize new, local renewable energy projects, with corresponding benefits to the local communities.

7. **Increase the opportunity for REC procurement from brownfield projects.** Developing solar projects on brownfield sites is a clear goal of P.A. 99-0906 with acknowledged public benefits, including returning blighted or contaminated land to productive use and enhancing the public health and well-being of Illinois residents. (20 ILCS 3855/1-5(8)) This is why the IPA Act requires a minimum portion of the RECs procured from new solar resources in Illinois come from brownfield solar projects. However, the proposed Plan treats this minimum as a maximum by targeting only 40,000 annual RECs from brownfield solar projects. The IPA should be open to accepting more than the minimum portion of RECs from brownfield solar projects, so long as doing so does not get in the way of achieving other IPA Act targets and goals. Furthermore, procurements for a larger number of RECs can actually serve to draw more interest to the market, increasing competition, and ultimately helping the IPA to procure brownfield RECs at a lower price.

   ELPC recommends that the IPA change the Annual REC Target from the proposed Brownfield Site Forward procurement from "0.04 million" to "0.04 million *minimum*." (Plan at Table 5-1, p. 78). ELPC recommends that the Agency except a minimum of 40,000 annual RECs *as well as* any additional bids that come in below the confidential price benchmark for utility-scale solar. By using this benchmark, the IPA can ensure

that any brownfield RECs procured above the minimum quantity are not having a negative impact on the long-term RPS budget or priorities. Furthermore, the IPA should limit the total annual quantity of RECs from brownfield projects that are less than utility scale so as to ensure that the requirement that 40% of new solar projects are utility-scale is met. To achieve this, ELPC recommends the following changes to the draft plan:

- **Table 5-1, p. 78:** *Add* "minimum" *to* "0.04 million."
- **Section 5.7.2, p. 81:** *1) Add* "minimum" *to* "0.04 million."

  2) If the 40,000 REC brownfield site photovoltaic goal is met through the Initial Forward Procurement, the Agency proposes that ~~no~~ an additional procurement specifically designed to procure RECs from brownfield site photovoltaic projects be conducted in~~during the~~ calendar year~~s~~ 2018 to solicit an unlimited number of RECs from brownfield site photovoltaic projects at prices below the confidential benchmark price for utility-scale solar ~~or 2019~~. However, if after the conclusion of the Initial Forward Procurement, the 40,000 REC target for new brownfield site photovoltaic projects has not been met, then the Agency proposes to conduct a Forward Procurement in calendar year 2018 for RECs from new brownfield site photovoltaic projects to, at minimum, meet the 2% goal, but open to accepting an unlimited number of bids for RECs from brownfield site photovoltaic projects at prices below the confidential benchmark price for utility-scale solar. The maximum number of total annual brownfield RECs accepted from projects that are smaller than utility-scale shall be 200,000, so as to ensure that the goal for utility-scale REC procurement will still be met.

8. **The IPA should evaluate eligibility requirements around Illinois Voluntary Site Remediation Program sites for the brownfield photovoltaic procurements to ensure that the program does not become a back door for non- or minimally-contaminated sites to access higher REC payments intended for contaminated sites and landfills.** The Illinois Voluntary Site Remediation Program (SRP) is an important avenue to government help for contaminated lands in Illinois. However, there is no requirement that sites entered into the program actually be contaminated and many sites contain minimal contamination. Previously there was no incentive to enter non-contaminated land into the SRP, however the brownfield photovoltaic program could create such an incentive. To avoid flouting legislative intent that the brownfield photovoltaic program facilitate the development of solar on sites that are actually contaminated, ELPC recommends that for this initial Plan, the IPA not allow sites entered into the SRP within the last two years to qualify for the brownfield photovoltaic program unless they can provide documentation of substantive contamination. ELPC also recommend that the IPA immediately institute this requirement for the next round of the initial photovoltaic procurement. ELPC does not believe this will eliminate the risk of development occurring on a minimally- or not-at-all contaminated site that is already in the SRP, but it will stop developers from being able to "game" the system by purposefully entering sites of proposed solar development into the SRP program. Further, ELPC recommends that the IPA work with the Illinois EPA to establish appropriate guidelines for which SRP sites should be eligible for future brownfield photovoltaic procurements before the next

Plan update. To implement this recommendation, ELPC suggests the following language be added to the Plan:

Section 5.7.2, p. 81: … then the Agency proposes to conduct a Forward Procurement in calendar year 2018 for RECs from new brownfield site photovoltaic projects to meet the 2% goal. Site entered into the Illinois Voluntary Site Remediation Program within the last two years will not be eligible for the 2018 brownfield site photovoltaic procurement except through a waiver process through which substantive contamination issues are documented. The IPA will work with Illinois EPA prior to the next Plan update to determine which Illinois SRP sites are qualified for future brownfield site photovoltaic procurements.

9. **Ensure differences in REC prices do not over-incentivize community vs. rooftop solar for large commercial customers, driving those who would otherwise put solar on their roofs to opt for a community project instead and leaving limited room in the community solar program for small subscribers.** ELPC is aware that the REC prices proposed in the current model will likely change significantly before the program is finalized, however, the relative difference in current proposed REC prices between a community solar project with three large customers and the largest large DG solar projects stands out as a concern. As proposed, large community solar projects would receive more than twice the price per REC as large DG projects. It is neither environmentally preferable nor an efficient Adjustable Block Program design for large customers that could easily put solar on their own roofs to choose more expensive community solar projects because they are more lucrative. In addition to indicating that the IPA is overpaying for basic community solar, such a scenario could undermine solar access for customers without the ability to put solar on their roof, particularly small customers that are more expensive to serve.

   Other states have struggled with skewed incentives that have resulted in large commercial customers foregoing rooftop projects and, instead, pursuing remote projects through community solar or "virtual" net metering policies. New York's original "remote net metering" (RNM) program provided monetary credits for C&I accounts at substantially higher per-kWh credit rates than they could obtain with on-site net metering projects. It is ELPC's understanding that this led to a high percentage of new greenfield RNM projects for C&I customers, even when on-site projects were otherwise feasible. The New York PUC eventually amended the RNM program to substitute volumetric crediting for monetary crediting, to eliminate the "uneconomic arbitrage opportunities" and "place remote and on-site locations on an equal footing."[17] Minnesota also stands out as an example of a state where the incentives for large commercial community solar significantly exceeded the incentives for on-site rooftop development.

   The record in this case and experience in other states suggests that large commercial customers do not need community solar incentives that significantly exceed the incentives for rooftop solar. Indeed, all things being equal, many large commercial

[17] New York Public Service Commission, Case 14-E-0422, Order Raising Net Minimum Caps, Requiring Tariff Filings, Making Other Findings, and Establishing Further Standards (Dec. 15, 2014), at pp. 26-27.

customers would likely prefer to avoid the "hassle" of installing solar on their own property and instead simply receive bill credits through a community solar project. This is not to disparage community solar by any means. Many customers lack the access and opportunity to build on their own property, and therefore the ability of these customers to participate in a community solar program is absolutely critical. However, creating an incentive structure that attracts large commercial entities to forego on-site development will tend to squeeze out opportunity for other customers for which community solar is the only option. Thus, ELPC urges the IPA to consider the relative value proposition to the end user choosing between rooftop and community solar and investigate the difference in incentive levels in other markets between commercial-only community solar (sometimes situated separately from community solar as "virtual net metering" projects). Ultimately the Agency should strive to set REC prices such that the value proposition for large energy user to choose community solar is marginally lower than a behind-the-meter solution.

10. **The IPA should maintain flexibility to implement the statute's geographic eligibility provisions to maximize benefits to the health, safety, and welfare of Illinois residents.** As described at page 60 of the Plan, the RPS adds new eligibility requirements for RECs, including new locational requirements to ensure that the Agency's procurement of RECs help further the Act's public interest goals. (Plan at Chapter 4, p. 60, citing subsections (I) and (J) of Section 1-75(c)(1)). ELPC strongly supports the legislature's decision to link REC eligibility with public interest criteria to ensure that the IPA's plan appropriately "maximize[s] the State's interest in the health, safety, and welfare of its residents." (20 ILCS 3855/1-75(c)(1)(I))

    Many valid state RPS statutes, including Illinois', limit eligibility to RECs generated within a specific region to ensure that the laws achieve their intended public health and safety goals. For example, the United States Court of Appeals for the Second Circuit recently upheld the Connecticut RPS law, which is similar to the Illinois RPS. "'We have consistently recognized the legitimate state pursuit of such interests as compatible with the Commerce Clause, which was 'never intended to cut the States off from legislating on all subjects relating to the health, life, and safety of their citizens,' even if that 'legislation might indirectly affect the commerce of the country.'" *Allco Fin. Ltd. v. Klee,* 861 F.3d 82 (2d Cir. 2017) (upholding dismissal of dormant Commerce Clause challenge to Connecticut RPS). Having created a new market for RECs, states are not somehow obligated to spread the benefits beyond the consumers who ultimately pay for the REC subsidies through their rates. *See Allco Fin. Ltd. v. Klee*, 2016 U.S. Dist. LEXIS 109786 at *76 (D. Conn. Aug. 18, 2016); *see also McBurney v. Young*, 133 S. Ct. 1709, 1712–13 (2013) ("A State does not violate the dormant Commerce Clause when, having created a market through a state program, it 'limits benefits generated by [that] state program to those who fund the state treasury and whom the State was created to serve.'").

    ELPC does not have a position at this time on the particular formula that the IPA has proposed to implement the locational eligibility requirement for the Illinois RPS. In our post-workshop comments, ELPC recommended that the IPA refrain from adopting a specific methodology for the initial long-term plan, but instead issue clear guidance for

project applicants to demonstrate the public interest benefit of adjacent state projects, making clear that the burden of such a demonstration remained with the project applicant. (ELPC Post-Workshop Comments at 2). We noted that an over-inclusive methodology for qualifying adjacent state projects would conflict with the intent of the statute to maximize the health and welfare of Illinois residents. *Id.*

ELPC continues to believe that the IPA should be conservative in its approach and should avoid adopting a methodology that expands the footprint to remote projects that may not create the same level of health and welfare benefits for Illinois residents and the local environment. In light of the challenging and complex nature of this task, ELPC recommends that the Plan make clear that the IPA will continue to evaluate the methodology and will consider changes in the future to ensure that the long-term plan meets the Agency's statutory obligation to "maximize the State's interest in the health, safety, and welfare of its residents." (20 ILCS 3855/1-75(c)(1)(I)) ELPC suggests the IPA add the following language to its Plan to implement this suggestion:

> **Section 4.1, p. 61:** A facility in an adjacent state that requests to have its RECs considered eligible for the Illinois RPS would need to demonstrate that it can achieve a total score of at least 60 points for the Agency to approve that request. However, the IPA will continue to evaluate this methodology and will consider changes in the future to ensure that the long-term plan meets the Agency's statutory obligation to "maximize the State's interest in the health, safety, and welfare of its residents." (20 ILCS 3855/1-75(c)(1)(I))

11. **The IPA should clarify that co-ops and munis must meet all of the community renewable generation project requirements described in the Plan in order for RECs from projects in those territories to be eligible for the IPA's Adjustable Block Program.** ELPC supports the IPA's proposed requirements for the eligibility of RECs from community solar projects facilitated by rural electric cooperatives and municipal utilities. First, as the Agency explains, co-ops and munis are not required to take any particular action in response to the new community solar requirements in Act 99-0906. There are many opportunities for co-ops and munis to significantly increase and diversify the amount of renewable energy in their energy supply mix, and utilities are free to create, adapt, and implement community solar and other renewable energy programs that work best for their members.

ELPC agrees, however, that if munis and co-ops choose to participate and sell their RECs into the IPA's adjustable block program than they must meet all of the community renewable generation project requirements described in the Plan, including the project size limits, subscriber limits, co-location requirements, disclosure requirements, and other substantive elements. This is implied by the discussion in the draft Plan, but ELPC suggests that the Agency consider making this explicit in order to avoid any confusion, as follows:

> **Section 7.4, p. 129:** *Add the following as a bullet to the bottom of the list of three bullets near the top of the page:* Meet all of the community renewable generation project requirements described in the Plan, including the project size limits,

subscriber limits, co-location requirements, disclosure requirements, and other substantive elements.

12. **Acknowledge the provision related to queueing into the Adjustable Block Program in the event the RPS budget is exhausted in any one year.** In its draft Plan, the Agency did not acknowledge a provision in Section 1-75(c)(1)(L)(vi) related to queueing into the ABP in the event the RPS budget is exhausted in any one year. ELPC assumes this was an oversight and suggests the Agency correct by a simple acknowledgement in Section 6.6 on Payment Terms, potentially as follows:

    Section 6.6, p. 103: *After the paragraph ending* "This would be five payments that bookend a four-year period of time," *add the following paragraph:*
    Section 1-75(c)(1)(L) also requires that:

    > *(vi) If, at any time, approved applications for the Adjustable Block program exceed funds collected by the electric utility or would cause the Agency to exceed the limitation described in subparagraph (E) of this paragraph (1) on the amount of renewable energy resources that may be procured, then the Agency shall consider future uncommitted funds to be reserved for these contracts on a first-come, first-served basis, with the delivery of renewable energy credits required beginning at the time that the reserved funds become available.*

    The Agency does not currently anticipate that approved applications for the Adjustable Block Program will exceed funds collected. However, the Agency will monitor this situation and, if that anticipation changes, address in greater detail in the next Plan update.

13. **Extend exception on batch size for minority- and female-owned businesses to batches of 100% Illinois Solar for All projects.** ELPC believes that this relaxation of program requirements would be a meaningful and appropriate way to ease burdens on solar development in low-income and environmental justice communities, in line with the intent of the P.A. 99-0906 to facilitate the development of a "a long-term, low-income solar marketplace throughout this State." (20 ILCS 3855/1-56(b)(2)) ELPC suggests the following language addition to the draft Plan to extend this exception:

    Section 6.14.3, p. 115: To provide employment opportunities for minority-owned and female-owned business enterprises as specified in Section 1-75(c)(7) of the Act, a minority-owned or female-owned business may request to submit an initial batch of only 50 kW, with any subsequent batches subject to the standard 100 kW (or more) requirement. In order to ease burdens on entities serving low-income and environmental justice communities through the Illinois Solar for all Program this relaxation on batch size requirements also applies to any batch with 100% Illinois Solar for All projects.

14. **ELPC agrees with the Agency's intent in crafting the co-location standard that appears in the draft Plan; if the Agency chooses to expand that standard in the final Plan submitted to the ICC, it should only make exceptions through a formal waiver process for projects that further other policy goals.** The Draft Plan proposes a co-location standard for community solar that seeks to respect the General Assembly's intent to limit the size of community solar projects to 2 MW while avoiding a situation in which

"multiple smaller projects are co-located in order to obtain the higher REC prices available to smaller systems." (Plan at 127)

ELPC largely agrees with the Agency's intent in crafting this co-location standard, although we recommend edits to close a potential loophole in which a developer could effectively develop one large project and then subdivide and sell co-located 2 MW sections on contiguous parcels to separate owners, which ELPC believes would skirt the intent of the IPA's proposal.

ELPC recognizes that there are economies of scale associated with larger co-located projects, but there are also benefits to a community solar program that enables a larger number of smaller projects that could potentially result in a greater diversity of project owners, participants, business models, and participating communities. To the extent that the IPA considers expanding the co-location standard in the Draft Plan, it should do so only in limited ways to achieve other goals and objectives of the statute, including the encouragement of "robust" opportunities for small customers to participate in community solar projects and additional encouragement for location of community solar projects on brownfields or landfills. Exceptions to the Agency's co-location standard should still be limited in size, and should only be allowed after a formal waiver process that requires project applicants to demonstrate that co-location will further policy goals set forth in the IPA Act, such as returning blighted land to productive use or enabling a project with significant participation from small customer subscribers.

Additionally ELPC is aware that some stakeholders are concerned about the potential of high interconnection costs, particularly in rural areas and the inefficiency of having to complete multiple costly grid upgrades in multiple different locations when it would be more efficient to cluster development around a single, sometimes larger grid upgrade. If the IPA or its Administrator finds that these interconnection cost issues become a barrier to project development, ELPC recommends the IPA host a workshop around updating the approach to paying for interconnection upgrades so that costly up-front upgrades that will benefit multiple potential solar developers can be shared down the interconnection queue rather than borne wholly by the first developer in the queue (in line with similar approaches seen in other states).

15. **ELPC remains concerned about the viability of small projects and small installers under the current Adjustable Block Program and supports other commenters' recommendations regarding the need for a separate adder for projects under 25 kW, as well as creative approaches to lessening the burden of collateral and other requirements for small projects/installers.** ELPC is aware that a number of other commenters have made suggestions around creative approaches to lessen administrative costs on small projects and small installers. ELPC urges the Agency to carefully consider these approaches and take what steps it can to ease burdens on these projects.

16. **The IPA should acknowledge ongoing discussions around the community solar bill credit tariffs.** The Draft Plan discusses a number of other community solar program features that fall outside of the control of the Agency, including the specifics of the utility

bill credit tariffs and mechanisms to ensure the portability and transferability of subscriptions. (Plan at Section 7.7, p. 135) ELPC does not necessarily disagree with the Agency's characterization of the ICC's approval of ComEd, Ameren, and MidAmerican's bill credit tariffs, but notes that many of these issues remain under discussion through meetings and workshops facilitated by ICC Staff and it is possible that the utility tariffs may be revised before the community solar program formally opens in Illinois. For clarity, the Plan should acknowledge these ongoing discussions as follows:

> **Section 7.7, p. 136:** Add the following sentence to last paragraph on the page: Stakeholders are continuing to discuss community solar bill crediting issues through a workshop process facilitated by the ICC Staff, and the Agency anticipates that the utility bill crediting tariffs may change before the community solar Adjustable Block Program opens in 2018. The Agency will participate in these ongoing discussions to ensure that the Plan and associated REC prices reflect any changes to the utilties' bill crediting tariffs.

17. **ELPC disagrees with the IPA's interpretation of the necessity to institute a community renewable generation program outside of the community solar program.** The IPA Act provides very clear outlines of the programs and procurements required by law to meet the new renewable resources requirement. Those requirements are first mentioned in Section 1-75(c)(1)(B) of the IPA Act and then clearly described in Section 1-75(c)(1)(C) to include "new wind projects" and "new photovoltaic projects; of that amount, to the extent possible, the Agency shall procure: at least 50% from solar photovoltaic projects using the program outlined in subparagraph (K) of this paragraph (1) from distributed renewable energy generation devices or community renewable generation projects; at least 40% from utility-scale solar projects; at least 2% from brownfield site photovoltaic projects that are not community renewable generation projects." The program referred to in subparagraph (K) itself is also clearly outlined and explicitly refers just to "photovoltaic" community renewable generation, i.e. community solar.

    Nowhere in subparagraphs (B), (C), or (K) is there any requirement for a community renewable generation program requirement beyond the community solar program. In fact the mention of "brownfield site photovoltaic projects that are not community renewable generations projects: suggest that the "community renewable generation" is sometimes used to mean "photovoltaic community renewable generation." Given how explicitly the legislature laid out requirements for other new build programs, it is clear that the only legislative requirement for community renewable generation projects is around photovoltaic community renewable generation and that the expansion of the definition of community renewable generation to include a variety of renewable resources beyond solar is intended to allow *but not require* such a program.

    Given this, ELPC recommends the following changes to the draft Plan:

    - **Section 1.1, p. 2:** Recognizing the growing interest nationally in community solar, the Agency is now tasked with developing a community renewable

generation program (to encompass ~~both~~ at least community solar but also, potentially, ~~as well as~~ other renewable generating technologies).

- **Section 2.2.5.2, p. 16-17:** Presumably, although community solar photovoltaic is a subset of "community renewable generation projects"—which can include generating technologies such as wind, solar thermal, biodiesel, biomass, tree waste, and hydropower—this means that the Agency has the authority to establish ~~only establishing an Adjustable Block Program featuring a community solar photovoltaic component would not satisfy this statutory requirement, and~~ a distinct non-PV community renewable generation program in addition to the Adjustable Block Program featuring a community solar photovoltaic component~~must also be established~~.

- **Section 2.5.2, p. 34:** P.A. 99-0906 also calls for the establishment of a "community renewable generation program."[102] Unlike with the Adjustable Block Program, the law does not set forth procurement targets or a proposed contract structure for this program, indicating that the photovoltaic community renewable generation element of the Adjustable Block Program alone can meet this requirement; nonetheless, the Agency ~~thus~~ understands that, legally, it has latitude to design ~~it's~~ a Community Renewable Generation Program in any manner otherwise consistent with state law and done "with a goal to expand renewable energy generating facility access to a broader group of energy consumers, to ensure robust participation opportunities for residential and small commercial customers and those who cannot install renewable energy on their own properties."

  From the law, the exact interaction and structure between ~~the Agency's~~ a potential Community Renewable Generation Program, and the portion of the Agency's Adjustable Block Program set-aside for community solar, is unclear; the law simply references that "subscribed shares of photovoltaic community renewable generation projects" shall be purchased through the Adjustable Block Program.[104] Thus, the IPA ~~understands~~ proposes that the community solar portion of its Adjustable Block Program to be something of a subset of its Community Renewable Generation Program, with a standalone Community Renewable Generation Program ~~still required to be~~ established to provide support for community renewable generation projects using technology other than photovoltaics.

- **Section 5.8.4, p. 86:** Section 1-75(c)(1)(N) of the IPA Act contains specific provisions requiring the creation of a Community Renewable Generation Program. The Agency understands this requirement to refer mainly to the photovoltaic community renewable generation program under the Adjustable Block Program, but is also exercising its discretion to create a community renewable generation program for non-photovoltaic renewables:

18. **Clarify that job training funds come from topline rather than ComEd RPS budget.** ELPC believes current Plan language around job training funding pursuant to Section 1-75(c)(1)(O) of the IPA Act is unclear and subject to the incorrect interpretation that job training funds come solely out of a portion of the RPS budget allocated to ComEd. ELPC does not believe this was the intent of the language, rather believing the reference to "ComEd's RPS budget" has to do with where the funds are going as ComEd will be

implementing the job training programs. (Plan at 3.17.1, p. 55) Furthermore the aforementioned incorrect interpretation is clearly not the case per statute which refers to an allocation of the "funds available under the plan" not limited to any particular utility. (20 ILCS 3855/1-75(c)(1)(O) It also would not make sense for funds to come only *from* ComEd's RPS budget inasmuch as ComEd's Job Training Plan, which was approved by the Illinois Commerce Commission in Docket 17-0332, makes it clear those programs will serve the whole state, including by coordinating with the Solar for All program throughout the state. Therefore, ELPC recommends the following clarification to the draft Plan:

Section 3.17.1, p. 55: Second, also pursuant to Section 1-75(c)(1)(O), in each of the delivery years 2017-2018, 2021-2022, and 2025-2026, $10,000,000 of ~~ComEd's~~ the RPS budget will be allocated to fund job training programs pursuant to Section 16-108.12 of the PUA.

19. **Lastly, ELPC generally supports the comments and recommendations of the Illinois Solar for All Working Group unless they conflict with other ELPC recommendations contained herein.** Generally speaking ELPC urges the Agency to keep in mind the legislative intent of creating a long-term, low-income solar marketplace through the Illinois Solar for All Program, which has already been referenced more than once in these comments. This means that is important to nurture and facilitate full competitive market participation in the low-income program, despite the clear need for additional consumer protections to protect the more vulnerable population that this program will serve. Therefore the IPA will have to work to strike an appropriate balance between adding extra consumer protections and administrative control over the program and allowing the market to develop competitive solutions to serve low-income customers.

    Additionally, ELPC notes that the ability of solar providers to pass on tangible economic benefits to low-income consumers will be limited by the various utility tariffs around net metering. In the case of community solar, in particular, the utility bill credits that are currently in place are extremely limited, which could limit customers' ability to realize significant economic benefits from their investments. The IPA and low-income program administrators should endeavor to identify any statutory or regulatory barriers that are challenging the legislature's intent to create a robust long-term, low-income solar marketplace in Illinois so that they may be corrected through further policy development in the future.

    Finally, ELPC would like to underscore the Illinois Solar for All Working Group's recommendations around the need for coordination between the Solar for All Program run by the IPA and various job training programs to successfully create the job pipeline envisioned by the IPA Act.

CONCLUSION

In conclusion, ELPC appreciates the effort the IPA put into developing the draft Plan and the effort it will make over the upcoming weeks to consider commenters' feedback and refine the

Plan. ELPC will continue to work, alongside other stakeholders, to ensure the final Plan will maximize the benefits of renewable energy to development for the people and State of Illinois.

Respectfully submitted,

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