



ENVIRONMENTAL LAW & POLICY CENTER

Protecting the Midwest's Environment and Natural Heritage

Comments of Environmental Law and Policy Center in Response to the Illinois Power Agency's Request for Comments on the 2018 Forward Procurements

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 Agency's request for comments on the Forward Procurements. 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 Long Term Renewable Resources Procurement Plan and has engaged in extensive outreach, both with the renewable industry and environmental advocates. ELPC draws on this experience to inform our responses to the IPA's questions and to share comments to make the forward procurements a success.

ELPC's comments will focus on two of the topics discussed at the June 12, 2018 procurement workshop. ELPC will comment on Topic 2: Credit and Collateral Provisions and Topic 5: IEPA Brownfield Site eligibility requirements.

TOPIC 2: CREDIT AND COLLATERAL PROVISIONS

- 1. Is there an alternative approach to determining the amount of post-bid collateral that will provide adequate financial assurances? Should this alternative be based on a dollar amount per MW or a dollar amount per REC? If a dollar amount per MW or per REC is recommended, what is an appropriate basis for determining this amount? Please provide any sample documentation from a jurisdiction that uses the proposed approach, if available.**

Under the Initial Forward Procurements the amount of post-bid collateral was tied to the annual REC quantity and bid price. At the June 12, 2018 workshop, ELPC and others expressed that tying the post-bid collateral requirement to the bid price could incentivize lower REC bids. Low collateral requirements could incentivize speculative bids leading to riskier projects that are more likely to fail. ELPC would recommend the post-bid collateral requirement be based on a uniform dollar amount per MW or REC. This collateral requirement would ensure projects are fairly bid and developed to completion.

TOPIC 5: IEPA BROWNFIELD SITE ELIGIBILITY REQUIREMENT

- 1. Is there an appropriate and measurable requirement that can be used to demonstrate that a site within the IEPA's Site Remediation Program currently features or featured actual blight or contamination prior to remediation? Please describe the proposed standard as well as what evidence could be used to satisfy the standard.**

The Illinois RPS requires the procurement of renewable resources from brownfield site photovoltaic (PV) projects. The stated purpose of brownfield solar development is to "return

blighted or contaminated land to productive use” (20 ILCS 3855/1-5(8)). The statute defines brownfield site PV projects as interconnected to an Illinois IOU, cooperative, or municipal utility and “regulated” under any of four brownfield programs. (20 ILCS 3855/1-10). Included in those four programs is the IEPA’s Site Remediation Program (SRP). However, the SRP process could allow sites to enroll in the program before the extent of contamination is known and could include sites with little or no contamination.

The Commission’s Order approving the IPA’s Plan accepted ELPC’s recommendation to require guidelines to ensure that a project on a site regulated by the SRP show the site previously featured or currently features “actual blight or contamination prior to remediation.” (Docket No. 17-0838, Final Order at 50). ELPC understands defining “actual blight or contamination” is difficult, but the bidding requirements should include specific contamination documentation for this procurement. Information submitted by site owners as part of the SRP to verify contamination could include:

- A Site Investigation Report as defined in 35 Ill. Adm. Code 740.425, verifying the existence of contaminants.
- A “No Further Remediation” letter from IEPA verifying the existence of contamination at the site prior to remediation.
- Documentation of site evaluation or remediation objectives under the Tiered Approach to Corrective Action Objectives.

CONCLUSION

In conclusion, ELPC appreciates the effort the IPA put into the Forward Procurement Workshop and the effort it will make consider commenters’ feedback. ELPC will continue to work, alongside other stakeholders, to ensure the RPS will maximize the benefits of renewable energy to development for the people and State of Illinois.

Respectfully submitted,



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