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FROM: [Commenter 13 representative] [Commenter 13's co-signor representative]

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SUBJECT: Comments on Brownfield Site Photovoltaic Procurement on behalf of [Commenter 13 and Commenter 13's co-signor]

Introduction

[Commenter 13 and Commenter 13's co-signor] appreciate the opportunity to provide comment to the Illinois Power Agency (IPA) regarding barriers that may have limited successful participation in the recent Brownfield Solar Procurement. Our organizations strongly support the development of solar projects on contaminated lands and were disappointed when no projects were selected through the recent procurement event.

[Commenter 13] has worked with solar developers and local communities throughout the Midwest for a number of years to eliminate barriers to redeveloping contaminated lands with solar projects through our [Commenter 13's program]. [Commenter 13's co-signor] strongly advocates for the placement of solar projects on Brownfields sites, as an economical and practical use for identified land parcels. We submit these comments in order to help the IPA ensure that the next brownfield solar procurement event is successful

What Should Brownfield Solar Look Like in Illinois

Before turning to the specific questions posed, it is important to understand what is meant by "brownfield solar" and the benefits brownfield solar is expected to bring to the people and the State of Illinois. Illinois law provides a list of programs that sites may be regulated under to qualify for the brownfield solar procurement (see 20 ILCS 3855/1-10) and identifies some of the benefits expected, stating that "[d]eveloping brownfield solar projects in Illinois will help return blighted or contaminated land to productive use while enhancing public health and the well-being of Illinois residents." (20 ILCS 3855/1-5(8)). But, alone, this list and benefit statement do not provide a full picture of what is meant by a brownfield solar project and the benefits they are expected to bring. From our collective years of experience working on brownfield solar development, we believe the following characteristics can help provide this picture:

- **Urban:** While brownfields and brownfield solar can be found across urban, suburban, and rural areas, brownfields are more common in urban areas. Brownfield solar development is an important type of solar development to help ensure that greenfields are not overly burdened and urban areas are not left behind as the solar market develops in a state.
- **Environmental justice:** Brownfield solar development is an important way to target solar development benefits to communities that have long been saddled with environmental burdens, particularly low-income communities of color, while directly addressing those environmental burdens.
- **Financial benefits:** Brownfield solar is expected to bring financial benefits to the communities in which it is developed. These include some mix of job creation (construction and sometimes operations), putting vacant properties back on the tax rolls, lease revenue, energy savings, and other project-specific revenue arrangements¹.
- **Ex-industrial:** Often, brownfields are former industrial sites in low-demand areas without prospects for higher or better land uses that may have nearby industrial power offtakers. Brownfield solar redevelopment of such sites can both bring vacant land back to productive use and provide green power options for nearby heavier users.
- **Publicly-owned:** Cities and towns are often left with the liabilities of contaminated lands long-after industry has moved on. Brownfield solar can be a useful mechanism for turning public liabilities into public assets.
- **Containment and clean-up:** Solar redevelopment is particularly attractive for sites with ongoing contamination issues because it (1) can leverage resources to help complete clean-ups, (2) involves minimal land disturbance and (3) can be operated with minimal people on-site. It also prevents inappropriate or inadvertent use of land that can be common with vacant sites and can result in problematic human exposure to ongoing contaminants.

While every brownfield solar project need not embody each of these characteristics, these characteristics should help provide a picture of the projects that the brownfield solar procurement is intended to enable. Furthermore, understanding the projects intended under the brownfield procurement is important to identify whether and where there are barriers to such projects.

Barriers to Participation in the Recent Brownfield Solar Procurement

The questions put forward by the IPA regarding barriers that may have limited successful participation in the brownfield solar procurement help reveal some inconsistencies between the procurement approach and the vision for brownfield solar in Illinois, outlined above.

Brownfield site photovoltaic project definition and related procurement provisions

¹ For more on brownfield solar benefits see the RE-Powering America's Land Initiative's [Benefits Matrix](#).

The statutory list of programs that sites may be regulated under to qualify for the brownfield solar procurement is adequate, but not ideal. The definition includes many key federal programs and one key state brownfield program. However, as [Commenter 13] has argued in the past, the inclusion of the Site Remediation Program, without any limits on participation, is actually too broad because it could serve as a backdoor for sites with no history of blight or contamination to participate in the brownfield procurement. More pertinently to the question of barriers to participation, we believe there are two types of brownfields that may, in part, be excluded from this definition: landfills and old mine lands.

While some landfills and mine land are included in the programs listed in statute, not all are and it does not make sense for those that are not to be excluded. Additional federal programs that should be added to the statute include: the Environmental Protection Agency's Landfill Methane Outreach Program and the Office of Surface Mining Reclamation and Enforcement's Abandoned Mine Lands Program. Landfills tracked or on record with the Illinois Environmental Protection Agency (IEPA) should also be added to the list. Additionally, policymakers should work with IEPA staff to ensure that including only landfills tracked or on record with the IEPA is sufficient and does not inadvertently exclude older landfills.

Additionally, the IPA asks whether the requirement that projects be regulated within the last 15 years (the "recency requirement") is too restrictive. This requirement makes sense from the perspective of ensuring that sites are not skirting clean-up requirements and/or that sites that were fully cleaned up long ago are not taking advantage of a program intended to additional clean-up and new redevelopment. Nonetheless, we would defer to individual site owners and developers to discuss how the requirement does or does not work for individual sites. Furthermore, we note that site owners can voluntarily submit sites to the State's Site Remediation Program, which may be an appropriate step for some brownfield sites that have not been regulated within the last 15 years. However, we will note that landfills and old mine lands are two brownfield types that may be more likely to have been abandoned far longer than 15 years ago, and we encourage the IPA to work with the IEPA to ensure recency requirements work for the breadth of brownfields in Illinois.

Identifying and executing brownfield solar projects – differences from utility scale

Brownfield solar projects differ from other solar development projects because they are more complex and often take longer to come together, with more stakeholders at the table. Because of this, they are less likely to be developer-driven and more likely to be championed by a site-owner, community member, or non-profit with a stake in site redevelopment. As such, there may be a number of differences necessary for the procurement set-up and process to facilitate the participation of these champion-driven brownfield solar procurements. The IPA's questions allude to many of these key differences and we encourage the IPA to further consider whether changes should be made regarding:

- **Timeline and structure** – As mentioned above, brownfield solar projects can take longer to come together than non-brownfield projects, which may mean that a longer or more flexible delivery timeline could be warranted. But even more fundamentally, it may be worth examining whether the timeline and structure of the procurement itself works well

for a champion-driven project. For instance, when the brownfield in question is municipally owned, it would not be uncommon for the municipality to seek developer interest through an RFQ or RFP process. It may be worth considering how those processes would dovetail with the IPA's own RFP process.

- **Advertising and outreach** – Potential project champions may learn about the brownfield procurement in different venues than project developers, so outreach that works well for the utility-scale procurement may not reach champions. The IPA should explore outreach opportunities such as brownfield networks, municipalities and counties, and economic development, environmental and environmental justice non-profits.
- **Resources** – Champions that are not familiar with the energy procurement process may need a different and/or additional set of resources, available at different times in order to successfully participate in the procurement process than would a developer.

We appreciate the IPA's careful thought on the issue of barriers to participation and willingness to be flexible and re-think their approach to the procurement process in order to enable robust participation from a wide range of brownfield sites and stakeholders. Eliminating barriers to participation is one key prerequisite to ensuring a successful procurement, but participation is not the only potential barrier to success. Through outreach to stakeholders and from our own understanding of the procurement process, our organizations are also aware that the benchmark is a very important element of the procurement process and, if not effectively calculated to simulate a like product, could limit the success of the brownfield solar procurement even with no barriers to participation.

What Constitutes a Like Product

The benchmark is an important cost-control measure included in the procurement process and our organizations strongly support the use of the benchmark, as such. Furthermore, as the benchmark is (and should be) strictly confidential, we have no insight into whether or not it played any role in limiting successful bids for the recent brownfield solar procurement. It is entirely possible that the bids received were unsuccessful for reasons unrelated to the benchmark or that bids received were unreasonably high and the benchmark functioned appropriately to control costs. However, if the benchmark was set without a full consideration of what constitutes a like product, the benchmark could function as a barrier to brownfield solar development.

Illinois law requires that renewable energy credit bids be cost effective by not exceeding benchmarks:

Renewable energy credits shall be cost effective. For purposes of this subsection (c), "cost effective" means that the costs of procuring renewable energy resources do not cause the limit stated in subparagraph (E) of this paragraph (1) to be exceeded and, for renewable energy credits procured through a competitive procurement event, do not exceed benchmarks based on market prices for like products in the region. For purposes of this subsection (c), "like products" means contracts for renewable energy credits from the same or substantially

similar technology, same or substantially similar vintage (new or existing), the same or substantially similar quantity, and the same or substantially similar contract length and structure. (20 ILCS 3855/1-75(c)(1)(D))

The requirement that benchmarks be set for “like products” is important as renewable energy credits (RECs) prices vary significantly by product. For instance, it is well understood that brownfield solar developments face different challenges and costs than utility-scale solar, the other type of solar development from which the IPA procures RECs through a competitive process. Brownfield solar projects often have higher costs associated with land preparation and project design. They may need different infrastructure if there is ongoing contamination on site and they may have higher costs associated with liability and risk. They may also be smaller than typical utility-scale solar projects and unable to access the same economies of scale. We therefore assume that the utility-scale and brownfield solar procurements do not involve “like products” and therefore should utilize different benchmarks.

But more fundamentally, whatever benchmark is set must allow for successful bids from the *types* of brownfield solar projects that stakeholders want to see move forward in Illinois and *across the State of Illinois*. First of all, this means that a like product must not be limited to products that can only be built in limited areas of the state or where energy is sold to a limited set of offtakers, as this would drastically limit the ability of communities throughout the state to access the program. But it also relates back to the characteristics of brownfield solar projects outlined above. Urban projects should be able to move forward even if some aspects of these developments involve higher costs. Projects should be expected to involve more community outreach and provide baseline levels of community benefit, particularly in environmental justice communities. Brownfield solar should also be able to deliver energy behind the meter or through direct PPAs to Illinois users – such as neighboring industrial users or their municipal owners – without increasing users’ electricity costs. Not all brownfield solar projects will reflect all of the characteristics outlined at the beginning of these comments, so it is possible that the development of more than one benchmark would be needed, but projects reflecting each of those characteristics, if cost-effective, should be able to move forward.

Conclusion

Ultimately, it is the IPA’s responsibility to ensure that brownfield solar projects move forward in Illinois, at a minimum, at the levels required by law. And that neither barriers to participation nor benchmarks that do not fully consider what is a “like” project, stymie brownfield solar procurement success. Our organizations value the IPA’s commitment to a successful brownfield solar development and willingness to reexamine the procurement process and address barriers to success. We appreciate the opportunity to comment and look forward to continue working with the IPA to make the brownfield solar procurement a success.